



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART I

#### LOCAL GOVERNMENT AREAS, AUTHORITIES AND ELECTIONS

##### *New areas and councils*

**F1** .....

**Textual Amendments**

**F1** S. 1 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F2** .....

**Textual Amendments**

**F2** S. 2 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F3** .....

**Textual Amendments**

**F3** S. 3 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F4****3A** .....

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**Textual Amendments**  
F4 S. 3A repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

*Election of Councillors*

F5 4 .....

**Textual Amendments**  
F5 S. 4 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F6 5 .....

**Textual Amendments**  
F6 S. 5 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F7 6–10 .....

**Textual Amendments**  
F7 Ss. 6–10 repealed by Representation of the People Act 1983 (c. 2), s. 206, **Sch. 9 Pt. II**

F8 11 .....

**Textual Amendments**  
F8 S. 11 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**PART II**

CHANGES IN LOCAL GOVERNMENT AREAS

**Modifications etc. (not altering text)**  
C1 Pt. 2 applied (with modifications) (20.8.2004) by Local Governance (Scotland) Act 2004 (asp 9), **ss. 4(2), 17(2)**; S.S.I. 2004/351, **art. 2** (with art. 3)

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### *Proposals by Local Government Boundary Commission for Scotland*

## **12 Local Government Boundary Commission for Scotland.**

- (1) There shall be a Local Government Boundary Commission for Scotland (in this Part of this Act referred to as “the Boundary Commission”) who shall carry out the functions conferred on them by or under this Act.
- (2) The provisions of Schedule 4 to this Act shall have effect with respect to the Boundary Commission.

## **13 Proposals for changes in local government areas.**

The Boundary Commission may, in consequence of a review conducted by them under this Part of this Act, make proposals to the Secretary of State for effecting changes appearing to the Commission desirable in the interests of effective and convenient local government by any of the following means or any combination of those means (including the application of any of the following paragraphs to an area constituted or altered under any of those paragraphs):

- (a) the alteration of a local government area;
- (b) the constitution of a new local government area;
- (c) the abolition of a local government area;
- (d) a change of electoral arrangements for any local government area which is either consequential on any change in local government areas proposed under this section or is a change (hereafter in this Part of this Act referred to as a “substantive change”) which is independent of any change in local government areas so proposed.

### **Modifications etc. (not altering text)**

- C2** S. 13 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

## **14 Duty and power to review local government areas.**

- (1) Subject to sections 15 and 16 of this Act, it shall be the duty of the Boundary Commission, not less than [<sup>F9</sup>eight] nor more than [<sup>F10</sup>twelve] years after [<sup>F11</sup>1st April 1996] and thereafter at intervals of not less than [<sup>F9</sup>eight] nor more than [<sup>F10</sup>twelve] years from the submission of the last report of the Commission on the previous review under this subsection, to review all local government areas for the purpose of considering whether to make such proposals in relation to all or any or any part of those areas as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.
- (2) Without prejudice to subsection (1) above, the Boundary Commission may at any time, subject to sections 15 and 16 of this Act, review all or any or any part of the local government areas for the purpose of considering whether to make such proposals in relation to them as are authorised by section 13 of this Act, and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.
- (3) If the Boundary Commission receive a request from a local authority or from any person that they should conduct a review under subsection (2) above with respect to

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any local government area in which the authority or person appears to the Commission to have an interest, the Commission shall consider the request.

- (4) In any case where the Secretary of State has made an order under section 1 of the <sup>M1</sup>New Towns (Scotland) Act 1968 designating any land as, or as an extension of, a new town and the area of the new town as so designated or so extended is not wholly comprised within one district, he shall, as soon as practicable after the order has become operative, send to the Boundary Commission a notice stating that the order is in operation and specifying the districts within which that area is situated, and on receipt of such a notice it shall be the duty of the Commission, subject to section 15(3) of this Act, to review the areas of those districts for the purpose of considering whether to make such proposals in relation to them as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.

#### Textual Amendments

- F9** Words in s. 14(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(2)(a)**; S.I. 1996/323, art. 4(1)(c), **Sch. 2**
- F10** Words in s. 14(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(2)(b)**; S.I. 1996/323, art. 4(1)(c), **Sch. 2**
- F11** Words in s. 14(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(2)(c)**; S.I. 1996/323, art. 4(1)(c), **Sch. 2**

#### Modifications etc. (not altering text)

- C3** S. 14 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, **ss. 19(3), 163(2)(3)** (with s. 156(6))

#### Marginal Citations

- M1** 1968 c. 16.

## 15 Powers of Secretary of State in relation to reviews.

- (1) The Secretary of State may by direction given to the Boundary Commission vary the length of any interval specified in section 14(1) of this Act either as respects the whole review or as respects any particular case or cases.
- (2) Subject to section 16 of this Act, the Secretary of State may direct the Boundary Commission to conduct a review of the local government areas as a whole, or of any one or more such areas or parts thereof, for the purpose of considering whether to make such proposals in relation to the areas as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.
- (3) The Secretary of State may direct the Boundary Commission not to undertake during a specified period a review of any one or more local government areas or parts of such areas which they have the duty or power to review under section 14 of this Act.
- (4) The Secretary of State may give directions to the Boundary Commission for their guidance in conducting reviews under this Part of this Act and in making proposals in consequence thereof, and the directions may relate to all such reviews or to any particular review or class of review.

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- (5) A direction shall not be given under subsection (4) above with respect to any review conducted under this Part of this Act except after consultation with associations appearing to the Secretary of State to be representative of local authorities.
- (6) The Secretary of State may give directions to the Boundary Commission with respect to the order in which areas are to be reviewed by them under sections 14 and 15(2) of this Act.

#### Modifications etc. (not altering text)

- C4** S. 15. power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

## 16 Substantive changes in electoral arrangements.

- (1) No review shall be conducted under section 14 or 15 of this Act for the purpose of making proposals for a substantive change of electoral arrangements, but the following provisions of this section shall have effect with respect to the making of such proposals.
- (2) It shall be the duty of the Boundary Commission not less than [<sup>F12</sup>eight] nor more than [<sup>F13</sup>twelve] years after the submission of the report on the [<sup>F14</sup>first] review of electoral arrangements for a local government area under Schedule 5 to this Act and thereafter, so far as is reasonably practicable, at intervals of not less than [<sup>F12</sup>eight] nor more than [<sup>F13</sup>twelve] years from the submission of the last report of the Commission under this subsection in relation to that area, to review the electoral arrangements for that area for the purpose of considering whether to make proposals to the Secretary of State for a substantive change in those arrangements and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.
- (3) Without prejudice to subsection (2) above, the Boundary Commission may at any time, whether at the request of a local authority or otherwise, review the electoral arrangements for a local government area for the purpose of considering whether to make proposals to the Secretary of State for a substantive change in those arrangements and what proposals, if any, to make and the Commission shall formulate any such proposals accordingly.

#### Textual Amendments

- F12** Words in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(3)(a); S.I. 1996/323, art. 4(1)(c), Sch. 2
- F13** Words in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(3)(b); S.I. 1996/323, art. 4(1)(c)
- F14** Word in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(3)(c); S.I. 1996/323, art. 4(1)(c)

#### Modifications etc. (not altering text)

- C5** S. 16 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

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## 17 Commission's reports and their implementation.

- (1) Where the Boundary Commission have—
- (a) in accordance with section 14 or 15 of this Act been conducting a review of any area; or
  - (b) in accordance with section 16 of this Act been conducting a review of electoral arrangements,

on which they have a power or duty to formulate proposals to the Secretary of State, and in either case the Commission are of the opinion that they are in a position to submit to the Secretary of State a report on the review or any part of it, they shall, not later than the expiry of any time limit applicable to the review in question in terms of section 14, 15 or 16 of this Act, submit a report to him on the review or that part, together with the proposals they have formulated thereon, or, as the case may be, a notification that they have no proposals to put forward thereon.

- (2) The Secretary of State may if he thinks fit by order give effect to any proposals made to him by the Boundary Commission, either as submitted to him or with modifications:

Provided that an order giving effect to any such proposals shall not be made until after the expiry of six weeks from the day on which those proposals were submitted to him.

- (3) If in relation to any area the Secretary of State decides to make an order under this section giving effect with modifications to proposals made to him by the Boundary Commission, he may, if he thinks fit, direct the Commission to conduct a further review of that area or, as the case may be, of its electoral arrangements and to make a report to him containing revised proposals with respect to that area or those arrangements within a time specified in the direction.
- (4) Where, following the submission of any report by the Commission under this section, the Secretary of State decides to make an order thereunder which abolishes or alters the boundaries of any local government area, he shall lay any such report before Parliament together with the order, and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either house of Parliament.

### Modifications etc. (not altering text)

- C6** S. 17 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

## Conduct of Reviews

## 18 Procedure for reviews.

- (1) Where the Boundary Commission propose to conduct a review under the foregoing provisions of this Part of this Act, they shall take such steps as they think fit to secure that persons who may be interested in the review are informed of the proposal to conduct it and of any directions of the Secretary of State which are relevant to it.
- (2) In conducting any such review, the Boundary Commission shall—
- (a) consult—

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- (i) the council of any local government area affected by the review, and such other local authorities, community councils and public bodies as appear to them to be concerned;
    - (ii) any bodies representative of staff employed by local authorities who have asked the Boundary Commission to consult them; and
    - (iii) such other persons as they think fit;
  - (b) take such steps as they think fit for seeing that persons who may be interested in the review are informed of any draft proposals or any interim decision not to make proposals, and of the place or places where those proposals or that decision can be inspected;
  - (c) in particular, deposit copies of those proposals or that decision at the offices of the council of any local government area which may be affected thereby and require any such council to keep the copies available for inspection at their offices for a period specified in the requirement; and
  - (d) take into consideration any representation made to them within that period.
- (3) Where the Boundary Commission make a report under this Part of this Act they shall—
  - (a) take such steps as they think fit for securing that persons who may be interested in the report are informed of it and of the place or places where it can be inspected;
  - (b) in particular, deposit copies of the report at the offices of the council of any local government area which may be affected thereby and require any such council to keep the copies available for inspection at their offices until the expiration of six months after the making of an order giving effect, with or without modifications, to any proposals contained in the report, or after a notification by the Commission that they have no proposals to put forward or, as the case may be, by the Secretary of State that he does not propose to give effect to the proposals of the Commission.
- (4) Subject to the foregoing provisions of this section, the procedure of the Boundary Commission in conducting any review under this Part of this Act shall be such as they may determine.

**Modifications etc. (not altering text)**

- C7 S. 18 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

**19 Local inquiries.**

- (1) The Boundary Commission may cause a local inquiry to be held with respect to any review carried out by them under this Part of this Act.
- (2) Subsections (3) to (6) and (8) of section 210 of this Act shall apply in relation to an inquiry held under this section with the substitution for references to a Minister of references to the Boundary Commission.

**Modifications etc. (not altering text)**

- C8 S. 19 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

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### Supplementary Provisions

#### [<sup>F15</sup>20 First review of electoral arrangements.

Schedule 5 to this Act shall have effect with respect to the first review of electoral arrangements for local government areas after 1st April 1996.]

##### Textual Amendments

**F15** S. 20 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

##### Modifications etc. (not altering text)

**C9** S. 20 power to transfer or modify functions conferred (30.11.2000) by 2000 c. 41, s. 19

#### 21 Delegation of functions of Commission.

- (1) The Boundary Commission may appoint one or more members of the Commission—
  - (a) to hold any local inquiry or to carry out any consultation or investigation which the Commission are required or authorised to hold or carry out under this Act; and
  - (b) to report to the Commission accordingly.
- (2) At the request of the Boundary Commission the Secretary of State may appoint one or more persons as assistant commissioners for all or any of the purposes specified in subsection (1)(a) and (b) above.
- (3) The appointment of an assistant commissioner under subsection (2) above—
  - (a) shall be for such period or for such purpose or purposes as may be specified in the terms of his appointment; and
  - (b) shall be on such terms and conditions as to remuneration and otherwise as may be determined by the Secretary of State with the approval of [<sup>F16</sup>the Treasury].

##### Textual Amendments

**F16** Words substituted by virtue of S.I. 1981/1670, arts. 2(2), 3(5)

##### Modifications etc. (not altering text)

**C10** S. 21 power to transfer or modify functions conferred (30.11.2000 for certain purposes, otherwise prosp.) by 2000 c. 41, ss. 19(3), 163(2)(3) (with s. 156(6))

#### 22 Restriction on promotion of private legislation for changing local government areas, etc.

No local authority shall have power to promote private legislation for forming or abolishing any local government area or for altering, or altering the status or electoral arrangements of, any local government area.



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## [<sup>F17</sup>23 Change of name of local government area.

- (1) The council of a local government area may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, change the name of the area.

[ Where a council so change the name of their area into Gaelic, they may also, by <sup>F18</sup>(1A) a resolution passed in accordance with subsection (1) above and notwithstanding sections 2(3) and 3(1)(a) of the <sup>M2</sup>Local Government etc. (Scotland) Act 1994, decide that their name shall be “Comhairle” with the addition of the name of their area.

- (1B) A council which have so changed their name into Gaelic may, by a resolution passed in accordance with subsection (1) above, change it back into English.]

- (2) Notice of any change of name made under this section—

- (a) shall be sent by the council concerned to the Secretary of State, to the Director General of the Ordnance Survey and to the Registrar General of Births, Deaths and Marriages for Scotland; and
- (b) shall be published in such manner as the Secretary of State may direct.

- (3) A change of name made in pursuance of this section shall not affect any rights or obligations of any council, authority or person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of name.]

### Textual Amendments

**F17** S. 23 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(5)**; S.I. 1996/323, art. 4(1)(c), **Sch. 2**

**F18** S. 23(1A)(1B) inserted (27.4.1997) by 1997 c. 6, **ss. 1, 2(2)**

### Marginal Citations

**M2** 1994 c.39.

## 24 Consequential and transitional arrangements relating to Part II.

- (1) The Secretary of State may by regulations of general application make such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary or proper for the purposes or in consequence of orders under this Part of this Act or for giving full effect thereto; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.
- (2) Regulations under this section may apply, with or without modifications, or extend, exclude or amend, or repeal or revoke, with or without savings, any provision of a local Act or any instrument made under an Act.
- (3) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under this Part of this Act may include the like provision in relation to the order as may be made by regulations of general application under this section by virtue of subsections (1) and (2) above; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

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- (5) Any such order may also include provision with respect to—
- (a) the name of any altered area;
  - (b) the constitution and election of public bodies in any area affected by the order;
  - (c) the retirement of existing councillors for electoral [<sup>F19</sup>wards] which have been abolished or the assignment of such councillors and of other existing councillors to new or altered electoral [<sup>F19</sup>wards], and the first election of councillors for any new or altered electoral [<sup>F19</sup>wards];
  - (d) without prejudice to paragraph (c) above, the holding of a fresh election of councillors for all electoral [<sup>F19</sup>wards] in the local government area in question in a case where substantial changes have been made to some of those [<sup>F19</sup>wards];
  - (e) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of the area affected by the order;
  - (f) the register of electors to be used at any election of <sup>F20</sup> . . . councillors for any electoral [<sup>F21</sup>ward] affected by the order.
- (6) In this section and in section 25 of this Act, “public body” means a local authority, joint board or joint committee.

#### Textual Amendments

- F19** Words in s. 24(5)(c)(d) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(6)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F20** Words in s. 24(5)(f) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(6)(b)(i)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F21** Word in s. 24(5)(f) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(6)(b)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

## 25 Transitional agreements as to property and finance.

- (1) Subject to any regulations made under section 24 of this Act and to the provisions of any order made under this Part of this Act, any public bodies affected by the alteration, abolition or constitution of any area by an order under this Part of this Act may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the alteration, abolition or constitution) of, and any financial relations between, the parties to the agreement.
- (2) The agreement may provide—
- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments by either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
  - (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.
- (3) In default of agreement as to any matter, the matter shall be referred to the arbitration of a single arbiter agreed on by the parties, or in default of agreement appointed by the Secretary of State, and the award of the arbiter may provide for any matter for which an agreement under this section might have provided; but the provisions of section 3

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of the <sup>M3</sup>Administration of Justice (Scotland) Act 1972 (power of arbiter to state case to Court of Session) shall not apply in relation to an arbitration under this section.

- (4) Any sum required to be paid by a public body in pursuance of an agreement or award under this section shall be defrayed in such manner as may be specified in the agreement or award and, failing the agreement or award so specifying, in such manner as the public body making the payment may determine.
- (5) Any capital sum received by a public body in pursuance of an agreement or award under this section shall be treated as capital and shall be applied with the sanction of the Secretary of State either in the repayment of capital debt or for any other purpose for which capital money may be applied.

**Modifications etc. (not altering text)**

C11 S. 25 extended (6.4.1995) by 1994 c. 39, s. 181(7); S.I. 1995/702, art. 4(1), Sch. 2 para. 32

**Marginal Citations**

M3 1972 c. 59.

## 26 Variation and revocation of orders under Part II.

- (1) The power conferred by section 233 of this Act to vary and revoke orders under this Act shall, in the case of orders under this Part of this Act, apply only in relation to any supplementary provision contained in any such order, and an order varying or revoking any such provision shall only be made after compliance with subsections (2) and (3) below.
- (2) When the Secretary of State proposes to make any such varying or revoking order he shall prepare a draft of the order, shall send copies of the draft to such local or public authorities and community councils as appear to him to be concerned, and shall give public notice, in such manner as appears to him sufficient for informing persons likely to be concerned, that the draft has been prepared, that a copy of the draft is available for inspection at one or more places specified in the notice and that representations with respect to the draft may be made to him within two months of the publication of the notice.
- (3) The Secretary of State shall consider any representations duly made with respect to the draft and may, if he thinks fit, make an order either in the form of the draft or subject to modifications.
- (4) The Secretary of State may cause a local inquiry to be held with respect to a draft order under this section.
- (5) In this section “supplementary provision” means any such provision as could be made by an order under this part of this Act by virtue of section 24 or 215 of this Act.

## 27 Consultation with Boundary Commission on schemes for community councils.

In considering the framing or approval of a scheme or of an amendment to a scheme under Part IV of this Act, a local authority or the Secretary of State may consult the Boundary Commission on any matter relating to the boundaries of the area of a community council.

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## 28 Supplementary.

(1) In this Part of this Act—

“electoral arrangements” means, in relation to a local government area, the number of councillors of the council for that area, the number and boundaries of the electoral [<sup>F22</sup>wards] into which that area is for the time being divided for the purpose of the election of the councillors, and the designation of any electoral [<sup>F22</sup>ward];

[<sup>F23</sup>“local government area” means the area of a local authority;]

“substantive change” has the meaning assigned to it by section 13(d) of this Act.

(2) In considering the electoral arrangements for local government areas for the purposes of this Part of this Act, the Secretary of State and the Boundary Commission shall so far as is reasonably practicable comply with the rules set out in Schedule 6 to this Act, and the said arrangements shall be in accordance with the provisions of section 5 of [<sup>F24</sup>the Local Government etc. (Scotland) Act 1994.].

(3) Nothing in this Part of this Act shall affect, nor shall anything done thereunder affect, the area of the registration district for which a registrar is required to be appointed under the <sup>M4</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965 or the provisions of that Act relating to registration districts.

### Textual Amendments

**F22** Words in definition of "electoral arrangements" in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(7)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**

**F23** Definition of "local government area" in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(7)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

**F24** Words in s. 28(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(7)(b)**; S.I. 1996/323, **art. 4(1)(c)**

### Marginal Citations

**M4** 1965 c. 49.

## PART III

### GENERAL PROVISIONS AS TO MEMBERS OF LOCAL AUTHORITIES AND PROCEEDINGS

#### *Qualifications and disqualifications*

## 29 Qualifications for nomination, election and holding office as member of local authority.

(1) A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be nominated as a candidate for election as, or to be elected, or to be, a member of a local authority if he has attained the age of 21 years, is a British subject or a citizen of the Irish Republic [<sup>F25</sup>or a relevant citizen of the Union] and not subject to any legal incapacity and—

(a) is, on the day on which he is nominated as a candidate, a local government elector for the area of the authority; or

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- (b) has, during the whole of the twelve months preceding the day on which he is nominated as a candidate, occupied as owner or tenant any land or other premises in the area of the authority; or
- (c) his principal or only place of work in the twelve months preceding the day on which he is nominated as a candidate has been in the area of the authority; or
- (d) has, during the whole of the twelve months preceding the day on which he is nominated as a candidate, resided in the area of the authority.

(2) In subsection (1) above,

[<sup>F26</sup>“citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland; and]

“owner” includes heir of entail in possession, liferenter and beneficiary entitled under any trust to the rents and profits of land or other premises, and does not include fiar of land or other premises subject to a liferent, or tutor, curator, judicial factor or commissioners.

#### Textual Amendments

**F25** Words in s. 29(1) inserted (1.1.1996) by S.I. 1995/1948, **regs. 1(2), 3(2)**

**F26** Definition of "citizen of the Union" in s. 29(2) inserted (1.1.1996) by S.I. 1995/1948, **regs. 1(2), 3(2)**

#### Modifications etc. (not altering text)

**C12** S. 29 modified (8.11.1994) by 1994 c. 39, s. 7(1), **Sch. 2 para. 3** (with s. 7(2)); S.I. 1994/2850, **art. 2, Sch. 2**

S. 29 applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, **art. 3, Sch. I para. 1**

### 30 Re-election.

A person ceasing to hold office to which he is elected under [<sup>F27</sup>the Local Government etc. (Scotland) Act 1994] shall, unless he is not qualified or is disqualified, be eligible for re-election.

#### Textual Amendments

**F27** Words in s. 30 substituted (1.4.1996) by S.I. 1996/739, **art. 7(1), Sch. 1 Pt. I para. 3(2)**

### 31 Disqualifications for nomination, election and holding office as member of local authority.

(1) Subject to subsections (2) and (3) below, a person shall be disqualified for being nominated as a candidate for election as, or for being elected, or for being, a member of a local authority if—

- (a) he or a partner of his holds any paid office or employment (other than the office of [<sup>F28</sup>convener or depute convener] ) or other place of profit in the gift or disposal—
  - (i) of the authority; or
  - (ii) of any joint committee <sup>F29</sup>. . . the expenses of which are defrayed in part by the authority; or

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- (b) he is a person whose estate has been sequestrated by a court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland; or
- (c) he has, within five years before the day of nomination, or election or since his election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) he is disqualified for being elected or for being a member of that authority under Part III of the [<sup>F30M5</sup>Representation of the People Act 1983].

[<sup>F31</sup>(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of [<sup>F28</sup>convener or depute convener] of the board) or other place of profit in the gift or disposal of the board.]

(2) Where a person is disqualified under subsection (1) above by reason of his estate having been sequestrated, the disqualification shall cease if and when—

(a) the sequestration of his estate is recalled or reduced; or

[<sup>F32</sup>(b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985.]

(3) Where a person is disqualified under subsection (1) above by reason of having been adjudged bankrupt, then—

(a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;

(b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge; and

(c) if he is discharged without such a certificate, his disqualification shall cease on the expiration of five years from the date of his discharge.

[<sup>F33</sup>(3A) A person who is for the time being an officer or employee of the Strathclyde Passenger Transport Authority or an employee of a subsidiary of that Authority shall be disqualified for being appointed or for being a member of the Strathclyde Passenger Transport Authority.]

<sup>F34</sup>(4) . . . . .

#### Textual Amendments

**F28** Words in s. 31(1)(a)(1A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(8)(a)**; S.I. 1996/323, **art. 4(1)(c)**

**F29** Words repealed by **Local Government and Housing Act 1989** (c. 42, SIF 81:2), ss. 1(4)(a), 194(4), **Sch. 12 Pt. II**

**F30** Words substituted by **Representation of the People Act 1983** (c. 2), s. 206, **Sch. 8 para. 15(b)**

**F31** S. 31(1A) inserted by **Local Government and Housing Act 1989** (c. 42, SIF 81:2), s. 1(4)(b)

**F32** S. 31(2)(b) substituted by **Bankruptcy (Scotland) Act 1985** (c. 66, SIF 66), s. 75(1), **Sch. 7 para. 12**

**F33** S. 31(3A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(8)(b)**; S.I. 1996/323, **art. 4(1)(c)**

**F34** S. 31(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(8)(c)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

#### Modifications etc. (not altering text)

**C13** S. 31 applied (with modifications) (1.4.1996) by S.I. 1995/3026, **arts. 1(2), 14**

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**C14** S. 31(1)(2)(3) applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. I para. 1

#### Marginal Citations

**M5** 1983 c. 2.

VALID FROM 20/01/2005

### <sup>F35</sup>31A Disqualification of officers, employees etc. from remaining members of local authority

- (1) A person elected a member of a local authority who is the holder of any paid office or employment or other place of profit in the gift or disposal of the authority is disqualified from remaining a member of the authority after the relevant day unless the person complies with subsection (2) below.
- (2) A person complies with this subsection by resigning, not later than the relevant day, from that office, employment or, as the case may be, other place of profit.
- (3) A resignation effected in pursuance of subsection (2) above terminates the holding of the office, employment or other place of profit with immediate effect notwithstanding any contrary provision in the terms and conditions under which the office, employment or place of profit is held.
- (4) In this section the relevant day is the day first occurring after that on which the person elected a member of the local authority was, under the local elections rules, declared to be so elected (no account being taken of a day which is a Saturday or Sunday or Christmas Eve, Easter Monday, or a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 (c. 80) or a day appointed for public thanksgiving or mourning in Scotland).
- (5) In subsection (4) above, the “local elections rules” means an order made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9).
- (6) This section does not affect section 1 (disqualification and political restriction of certain local government officers and staff) of the Local Government and Housing Act 1989 (c. 42).]

#### Textual Amendments

**F35** S. 31A inserted (20.1.2005) by Local Governance (Scotland) Act 2004 (asp 9), ss. 7(2), 17(2); S.S.I. 2004/558, art. 2

## 32 Proceedings for disqualification.

- (1) Subject to subsection (3) below, proceedings against any person on the ground that he is disqualified (within the meaning of this section) for being nominated as a candidate for election as a member of a local authority may be instituted before the sheriff principal by any opposing candidate at the election.
- (2) Subject to subsection (3) below, proceedings against any person on the ground that he acted, or claims to be entitled to act, as a member of a local authority while disqualified

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for so acting within the meaning of this section may be instituted before the sheriff principal by the local authority concerned or by any four or more local government electors for the area concerned.

- (3) Proceedings under this section may not be instituted after the alleged disqualification has ceased to exist, but proceedings pending at the time of such cessation may continue.
- (4) Where in proceedings under this section it is proved that a person has acted as a member of a local authority while disqualified for so acting, the sheriff principal may—
  - (a) make a declaration to that effect and declare that the office in which the person has acted is vacant;
  - (b) grant interdict against the person so acting;
  - (c) order the person to pay to the authority such sum not exceeding £100 as the sheriff principal thinks fit.
- (5) Where in proceedings under this section it is proved that the person concerned claims to act as a member of a local authority and is disqualified for so acting, the sheriff principal may make a declaration to that effect and declare that the office in which the person claims to be entitled to act is vacant and grant interdict against the person so acting.
- (6) The sheriff principal shall have the same powers and privileges as a judge on the trial of a parliamentary election petition.
- (7) For the purposes of this section, a person shall be deemed to be disqualified for acting as a member of a local authority if he is not qualified to be, or is disqualified for being, a member of the authority.

**Modifications etc. (not altering text)**

C15 S. 32 applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. I para. 1

### 33 Validity of acts done by unqualified persons.

The acts and proceedings of any person elected to an office under [F36the Local Government etc. (Scotland) Act 1994] and acting in that office shall, notwithstanding any question as to the validity of his election or his disqualification or want of qualification, be as valid and effectual as if he had been duly elected and qualified.

**Textual Amendments**

F36 Words in s. 33 substituted (1.4.1996) by S.I. 1996/739, art.7(1), Sch. 1 Pt. I para. 3(2)

**Modifications etc. (not altering text)**

C16 S. 33 applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. I para. 1



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## *F<sup>37</sup> Acceptance of Office*

### **Textual Amendments**

**F37** S. 33A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 30(1)**

### **33A Declaration of acceptance of office of councillor.**

- (1) A person elected to office as a councillor of a local authority shall not, unless—
- (a) he has made a declaration of acceptance of office in a form prescribed by an order made by the Secretary of State; and
  - (b) the declaration has within two months from the day of the election been delivered to the proper officer of the local authority,
- act in the office except for the purpose of taking such a declaration.
- (2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.
- (3) The declaration shall be made before either—
- (a) two members of the local authority to which the declarant is elected; or
  - (b) the proper officer of the local authority; or
  - (c) the sheriff; or
  - (d) a justice of the peace.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.]

### **Modifications etc. (not altering text)**

**C17** S. 33A amended by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), **s. 31(7)**

**C18** S. 33A applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255](#), art. 3, **Sch. I para. 1**

## *Resignation and Vacation of Office*

### **34 Resignation.**

A member of a local authority may, at any time, resign his office as member by a notice in writing signed by him and delivered to the proper officer of the authority, and his resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

### **Modifications etc. (not altering text)**

**C19** S. 34 applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3**

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### 35 Vacation of office by failure to attend meetings.

- (1) Subject to subsections (2) and (3) below, if a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority, cease to be a member of the authority.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.
- (3) A member of any branch of Her Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of a failure to attend meetings of the local authority if the failure is due to that employment.

#### Modifications etc. (not altering text)

**C20** S. 35 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 36 Casual vacancies.

For the purpose of filling a casual vacancy in any office for which an election is held under [<sup>F38</sup>the Local Government etc. (Scotland) Act 1994], the date on which the vacancy is to be deemed to have occurred shall be—

- (a) in the case of death, on the date of death;
- (b) in the case of resignation, the date on which the notice of resignation takes effect;
- (c) in the case of the election of a person who is not qualified to be elected or who is disqualified for being elected a member of a local authority, or of a member of a local authority ceasing to be qualified to be a member or becoming disqualified for being a member, the date on which the office has been declared vacant by the sheriff principal or the date of the determination of any appeal;
- (d) in the case of a full number of members of a local authority not being elected at an election, the [<sup>F39</sup>day on which the poll was held at] the election;
- (e) in the case of an election being declared void on an election petition, the date of the decision of the election court;
- (f) in the case of a vacancy arising from any other cause, not being a vacancy arising in ordinary course, such date as the local authority may determine.

#### Textual Amendments

**F38** Words in s. 36 substituted (1.4.1996) by S.I. 1996/739, art. 7(1), Sch. 1 Pt. I para. 3(2)

**F39** Words in s. 36(d) substituted (retrospectively) by Scottish Local Government (Elections) Act 2002 (asp 1), s. 4(4)(6)

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**Modifications etc. (not altering text)**

C21 S. 36 applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. I para. 1

**37 Filling of casual vacancies.**

- (1) On a casual vacancy occurring in the office of councillor, an election to fill the vacancy shall be held within three months from the date on which the vacancy is deemed to have occurred, and the [F40 day on which the poll is to be held at the] election to fill the vacancy shall be fixed by the returning officer.
- (2) Where a casual vacancy in any such office occurs within six months before the date of the next ordinary election, an election shall not be held under subsection (1) above unless, on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies), the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election under subsection (1) above is not held, the vacancy shall be filled at the next ordinary election.
- (3) A person elected to fill a casual vacancy in the office of councillor shall hold office until the day of the next ordinary election.

**Textual Amendments**

F40 Words in s. 37(1) substituted (retrospectively) by Scottish Local Government (Elections) Act 2002 (asp 1), s. 4(5)(6)

**Modifications etc. (not altering text)**

C22 S. 37(1)(3) applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. I para. 1

*Restrictions on voting*

**38 Disability of members of authorities for voting on account of interest in contracts, etc.**

- (1) Subject to the provisions of section 60 of this Act, if a member of a local authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall at the meeting, and as soon as practicable after its commencement, disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.
- (2) If any person fails to comply with the provisions of subsection (1) above, he shall for each offence be liable on summary conviction to a fine not exceeding [F41 level 4 on the standard scale] unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.
- (3) A local authority may, by standing orders, provide for the exclusion of a member of the authority from a meeting of the authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect, is under consideration.
- (4) The following, that is to say—

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- (a) the receipt by the [<sup>F42</sup>convener or depute convener] of a council of an allowance to meet the expenses of his office or his right to receive, or the possibility of his receiving, such an allowance;
  - (b) the receipt by a member of a local authority of an allowance or other payment under any provision of sections 45 to 48 of this Act [<sup>F43</sup>or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989] or his right to receive, or the possibility of his receiving, any such payment;
- shall not be treated as a pecuniary interest for the purposes of this section.

#### Textual Amendments

- F41** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F**, 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)
- F42** Words in [s. 38\(4\)\(a\)](#) substituted (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), **Sch. 13 para. 92(9)**; [S.I. 1996/323](#), **art. 4(1)(c)**
- F43** Words inserted by [Local Government and Housing Act 1989 \(c. 42\)](#), [SIF 81:2](#), [s. 194\(1\)](#), **Sch. 11 para. 33**

#### Modifications etc. (not altering text)

- C23** [S. 38](#) modified by [Transport Act 1985 \(c. 67\)](#), [SIF 126](#), **ss. 74(12)**, 104(2)
- C24** [S. 38](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), **arts. 1(2)**, 14

### 39 Pecuniary interests for purposes of section 38.

- (1) For the purposes of section 38 of this Act, a person shall be treated, subject to the following provisions of this section and to section 41 of this Act, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if—
- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
  - (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.
- (2) Subsection (1) above does not apply to membership of or employment under any public body, and a member of a company or other body shall not by reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.
- (3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purpose of section 38 of this Act to be also an interest of the other.

#### Modifications etc. (not altering text)

- C25** [S. 39](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), **art. 2**, **Sch. para. 3**
- [S. 39](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), **arts. 1(2)**, 14

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#### 40 General notices and recording of disclosures for purposes of section 38.

- (1) A general notice, given in writing to the proper officer of the authority by a member thereof, to the effect that he or his spouse is a member or in the employment of a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, or that he or his spouse is the tenant of any premises owned by the authority, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person or to those premises which may be the subject of consideration after the date of the notice.
- (2) The proper officer of the authority shall record, in a book to be kept for the purpose, particulars of any disclosure made under section 38 of this Act and of any notice given under this section, and the book shall be open at all reasonable hours to the inspection of any local government elector for the area of the local authority.

##### Modifications etc. (not altering text)

- C26** S. 40 excluded (16.1.1990 to a certain extent and 8.5.1992 otherwise) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 19\(4\)](#); [S.I. 1989/2445](#), art. 4; [S.I. 1992/760](#), [art.2](#).
- C27** S. 40 applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 3](#)  
S. 40 applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), [arts. 1\(2\)](#), 14

#### 41 Removal or exclusion of disability, etc.

- (1) The Secretary of State, as respects a member of any local authority, may, subject to such conditions as he may think fit to impose, remove any disability imposed by section 38 of this Act in any case in which the number of members of a local authority disabled by that section at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Secretary of State in the interests of the inhabitants of the area that the disability should be removed.
- (2) The power of the Secretary of State under subsection (1) above includes power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member, or any class or description of member, by reason of such interests, and in respect of such matters, as may be specified by the Secretary of State.
- (3) Nothing in section 38 of this Act precludes any person from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Secretary of State for the exercise of the powers conferred by subsections (1) and (2) above.
- (4) Section 38 of this Act does not apply to an interest in a contract, proposed contract or other matter which a member of a local authority has as <sup>F44</sup>a person who is liable to pay any of the community charges or community water charges imposed under the Abolition of Domestic Rates Etc. (Scotland) Act 1987 <sup>F45</sup>or any council tax or council water charge imposed under the Local Government Finance Act 1992] or who would be so liable but for any enactment or anything provided or done under any enactment or as] a ratepayer or inhabitant of the area, or as an ordinary consumer of water or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

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- (5) For the purposes of section 38 of this Act, a member shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only of an interest of his or of any company, body or person with which he is connected, as mentioned in section 39 of this Act, which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.
- (6) Where a member of a local authority has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £1,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class, sections 38 and 39 of this Act shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

#### Textual Amendments

- F44** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 145, **Sch. 6 para. 23**
- F45** Words in s. 41(4) inserted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para.35**; S.I. 1993/575, **art. 2(c)**

#### Modifications etc. (not altering text)

- C28** S. 41 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch. para. 3**  
 S. 41 applied (with modifications) (1.4.1996) by S.I. 1995/3026, **arts. 1(2), 14**
- C29** S. 41(1)-(3) extended (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), **s. 112(4)**.
- C30** S. 41(1)-(3) applied (1.4.1996) by 1994 c. 39, **ss. 74(4), 82(4)**; S.I. 1996/323, **art. 4(1)(a)**, **Sch. 1**

## 42 Interpretation of sections 39 and 41.

[<sup>F46</sup>(1) In sections 39 and 41 of this Act “securities” means—

- (a) investments falling within any of paragraphs 1 to 6 of Schedule 1 to the Financial Services Act 1986 or, so far as relevant to any of those paragraphs, paragraph 11 of that Schedule; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any society registered under the Industrial and Provident Societies Act 1965 or any building society within the meaning of the Building Societies Act 1986.]

- (2) In section 39 of this Act, “public body” includes any body established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, the governing body of any university, or college, school or hall of a university, college of education or central institution or of any institution established under [<sup>F47</sup>section 77(2) of the <sup>M6</sup>Education (Scotland) Act 1980] and the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated by the Order confirmed by the <sup>M7</sup>National Trust for Scotland Order Confirmation Act 1935.

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In this subsection, “college of education” and “central institution” have the meanings assigned to them by [F47]section 135(1) of the said Act of 1980].

**Textual Amendments**

- F46** S. 42(1) substituted by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 212(2), **Sch. 16 para. 9**
- F47** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), s. 17(2)(a) and [Education \(Scotland\) Act 1980 \(c. 44\)](#), **Sch. 3 para. 1**

**Modifications etc. (not altering text)**

- C31** S. 42 applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3**  
S. 42 applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), **arts. 1(2)**, 14

**Marginal Citations**

- M6** 1980 c. 44.
- M7** 1935 c. ii.

*Meetings and proceedings*

**43 Meetings and proceedings of local authorities.**

The provisions of Schedule 7 to this Act shall have effect with respect to the meetings and proceedings of local authorities and their committees.

**Modifications etc. (not altering text)**

- C32** S. 43 applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3**

<sup>F48</sup>**44** .....

**Textual Amendments**

- F48** S. 44 repealed by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\)](#), s. 3, **Sch. 3**

*Allowances to members of local authorities and other bodies*

<sup>F49</sup>**45** .....

**Textual Amendments**

- F49** S. 45 repealed (1.4.1991) with savings in s. 45(4) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), **Sch. 12 Pt. II**; [S.I. 1991/344](#), art. 3(2)(b)(ii), **Schedule**, para. 2(1); S. 45 expressed to be amended (*temp.* from 6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3** and s. 45(4) expressed to be amended (1.4.1996) by [S.I. 1995/3026](#), **arts. 1(2)**, 13

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<sup>F50</sup> 45A .....

**Textual Amendments**  
**F50** S. 45A repealed (1.4.1991) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), Sch. 12 Pt. II; S.I. 1991/344, art. 3(2)(b)(ii)

**46 Travelling allowance and subsistence allowance.**

(1) Subject to subsection (2) below a member of a body to which this section applies shall be entitled to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling (whether inside or outside the United Kingdom) or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any approved duty as a member of that body, being payments at rates determined by that body, but not exceeding, in the case of travel [<sup>F51</sup>or subsistence] for the purpose of an approved duty within the United Kingdom, such rates as may be specified by the Secretary of State.

<sup>F52</sup>(2) .....

**Textual Amendments**  
**F51** Words inserted by Local Government, Planning and Land Act 1980 (c. 65), s. 25(1)  
**F52** S. 46(2) repealed by Local Government, Planning and Local Act 1980 (c. 65), Sch. 34 Pt. XVI

**Modifications etc. (not altering text)**  
**C33** Ss. 45–50 extended with modifications by Licensing (Scotland) Act 1976 (c. 66), s. 3(1)  
**C34** S. 46 extended by Social Work (Scotland) Act 1968 (c. 49), Sch. 3 para. 8 (as substituted by Local Government (Scotland) Act 1975 (c. 30), s. 33) and Education (Scotland) Act 1980 (c. 44), Sch. A1 para. 9 (as inserted by Education (Scotland) Act 1981 (c. 58), s. 1(2), Sch. 1)  
**C35** Ss. 45-50 restricted by S.I. 1991/397, reg. 26  
**C36** S. 46 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3  
S. 46 applied (with modifications) (1.4.1996) by S.I. 1995/3026, arts. 1(2), 13

**47 Allowances for attending conferences and meetings.**

(1) The following bodies, that is to say—  
(a) any local authority;  
(b) any other body to which this section applies and which has power by virtue of any enactment to send representatives to any conference or meeting to which this section applies;  
may pay any member of the authority or other body attending any such conference or meeting such [<sup>F53</sup>allowances in the nature of an attendance allowance and an allowance for travel and subsistence, as they think fit.

(1A) payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—



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- (a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and
- (b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 46 above for the corresponding allowance under that section;

and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body in question has paid or is already liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.]

(2) Where a body mentioned in subsection (1)(b) above has power under any enactment other than this Act or any instrument under such an enactment to pay expenses incurred in attending a conference or meeting to which this section applies, the amount payable under that enactment or instrument shall not exceed the amount which would be payable in respect of the attendance under that subsection.

(3) In relation to a local authority, this section applies to a conference or meeting held inside or outside the United Kingdom and convened by any person or body (other than a person or body convening it in the course of a trade or business or a body the objects of which are wholly or partly political) for the purpose of discussing matters which in their opinion relate to the interests of their area or any part of it or the interests of the inhabitants of their area or any part of it.

[<sup>F54</sup>(3A) In relation to any [<sup>F55</sup>body which is a joint board, joint authority or other combined body all the members of which are representatives of local authorities] this section applies to a conference or meeting held and convened as mentioned in subsection (3) above for the purpose of discussing matters which in the body's opinion relate—

- (a) to the functions of the body; or
- (b) to any functions of local authorities in which the body has an interest.]

(4) In relation to any other body to which this section applies, <sup>F56</sup> . . . this section applies to a conference or meeting convened by one or more such bodies or by an association of such bodies.

<sup>F57</sup>(5) . . . . .

#### Textual Amendments

- F53** Words in s. 47(1) substituted (1.4.1991) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\), s. 194\(1\) Sch. 11 para. 34](#); S.I. 1991/344, [art. 3\(2\)\(a\)](#)
- F54** S. 47(3A) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 25\(5\)](#)
- F55** Words in s. 47(3A) substituted (1.4.1991) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\), s. 194\(1\) Sch. 11 para. 34\(b\)](#); S.I. 1991/344, [art. 3\(2\)\(a\)](#)
- F56** Words in s. 47(4) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 92\(10\)\(a\), Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)
- F57** S. 47(5) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 92\(10\)\(b\), Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\), Sch. 2](#)

#### Modifications etc. (not altering text)

- C37** S. 47 applied (with modifications) (1.4.1996) by [S.I. 1005/3026, art. 13](#)

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- C38** Ss. 45–50 extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\), s. 3\(1\)](#)  
**C39** S. 47 restricted by [S.I. 1991/397, reg. 23](#)  
 Ss. 45-50 restricted by [S.I. 1991/397, reg. 26](#)

#### **48 Payment of expenses of official and courtesy visits, etc.**

- (1) Subject to subsection (2) below, a local authority may—
- (a) defray any travelling or other expenses reasonably incurred by or on behalf of any members in making official and courtesy visits, whether inside or outside the United Kingdom, on behalf of the authority;
  - (b) defray any expenses incurred in the reception and entertainment by way of official courtesy of distinguished persons visiting the area of the authority and persons representative of or connected with local government or other public services whether inside or outside the United Kingdom and in the supply of information to any such persons.
- (2) In the case of a visit within the United Kingdom, the amount defrayed under this section by a local authority in respect of the expenses of any member of the authority in making a visit within the United Kingdom shall not exceed the payments which he would have been entitled to receive by way of travelling allowance or subsistence allowance under section 46 of this Act if the making of the visit had been an approved duty of that member.

#### **Modifications etc. (not altering text)**

- C40** S. 48 applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789, art. 2, Sch. para. 3](#)  
 S. 48 applied (with modifications) (1.4.1996) by [S.I. 1995/3026, arts. 1\(2\), 13](#)  
**C41** Ss. 45–50 extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\), s. 3\(1\)](#)  
**C42** Ss. 45-50 restricted by [S.I. 1991/397, reg. 26](#)

#### **49 Provisions supplementary to sections 45 to 48.**

- (1) Sections 45 to 47 of this Act shall apply to the following bodies—
- (a) all local authorities;
  - <sup>F58</sup>(b) .....
  - (c) any joint committee of two more local authorities, whether appointed or established under this Act or any other enactment;
  - (d) any board, joint board, joint authority or other combined body, all the members of which are representatives of local authorities;
  - (e) any body prescribed for the purposes of those sections and on which any such body as is mentioned in any of the foregoing paragraphs is represented; and
  - <sup>F59</sup>(f) .....
- [<sup>F60</sup>(1A) Sections 45 to 47 of this Act shall apply to any local valuation panel or valuation appeal committee but as if the payments referred to in those sections were made by the valuation authority.]
- [<sup>F61</sup>(2) In sections 46 to 48 above “approved duty”, in relation to a member of a body, means such duties as may be specified in or determined under regulations made by the Secretary of State.]

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- (3) For the purposes of sections 45 to 48 of this Act a member of a committee or sub-committee of a local authority or other body mentioned in subsection (1) above shall be deemed to be a member of that body.
- (4) Section 38(4) of this Act shall apply in relation to a member of any body mentioned in subsection (1) above to whom it would not otherwise apply as it applies in relation to a member of a local authority; and no other enactment or instrument shall prevent a member of any such body from taking part in the consideration or determination of any allowance or other payment under any of the provisions of sections 45 to 48 of this Act [<sup>F62</sup>or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989].

#### Textual Amendments

- F58** S. 49(1)(b) repealed by Local Government (Scotland) Act 1975 (c. 30), **Sch. 7**
- F59** S. 49(1)(f) repealed by Local Government (Scotland) Act 1975 (c. 30), **Sch. 7**
- F60** S. 49(1A) added by Local Government (Scotland) Act 1975 (c. 30), **Sch. 6 Pt. II para. 46(b)**
- F61** S. 49(2) substituted (16.1.1990 for certain purposes and otherwise prosp.) by Local Government and Housing Act 1989 (c. 42, SIF 81:2), ss. 194(1), 195(2), **Sch. 11 para. 35(3)**; S.I. 1989/2445, **art. 4**
- F62** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 194(1), **Sch. 11 para. 35(4)**

#### Modifications etc. (not altering text)

- C43** S. 49 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2, Sch. para. 3**  
S. 49 applied (with modifications) (1.4.1996) by S.I. 1995/3026, **arts. 1(2), 13**
- C44** Ss. 45–50 extended with modifications by Licensing (Scotland) Act 1976 (c. 66), **s. 3(1)**
- C45** Ss. 45–50 restricted by S.I. 1991/397, **reg. 26**

<sup>F63</sup>**49A** .....

#### Textual Amendments

- F63** S. 49A repealed (1.4.1991) with savings by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), **Sch. 12 Pt. II**; S.I. 1991/344, **art. 3(2)(b)(ii), Schedule, para. 3(1)**; S. 49A amended (1.4.1996) by 1995/3026, **arts. 1(2), 13**

## 50 Regulations as to allowances.

- (1) The Secretary of State may make regulations as to the manner in which sections 45 to 48 [<sup>F64</sup>and 49A] of this Act are to be administered, and in particular, and without prejudice to the generality of the foregoing provision, may make regulations—
- (a) providing for the avoidance of duplication in payments under those sections, or between payments under any of those sections and any other Act, and for the determination of the body or bodies by whom any payments under those sections are to be made, and, where such payments are to be made by more than one body, for the apportionment between those bodies of the sums payable;
- (b) specifying the forms to be used and the particulars to be provided for the purpose of claiming payments under those sections;

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- (c) providing for the publication by a body to which sections 45 to 47 of this Act apply, in the minutes of that body or otherwise, of details of such payments.
- (2) A statutory instrument containing regulations under section 45 [<sup>F65</sup>49 or 49A] of this Act or this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F64** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 26\(4\)\(a\)](#)  
**F65** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 26\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

- C46** [S. 50](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789, art. 2, Sch. para. 3](#)  
[S. 50](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026, arts. 1\(2\), 13](#)  
**C47** [Ss. 45–50](#) extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\), s. 3\(1\)](#)  
**C48** [Ss. 45–50](#) restricted by [S.I. 1991/397, reg. 26](#)

## [<sup>F66</sup>PART IIIA

### ACCESS TO MEETINGS AND DOCUMENTS OF LOCAL AUTHORITIES, COMMITTEES AND SUB-COMMITTEES

#### Textual Amendments

- F66** Pt. IIIA (ss. 50A–50K) inserted by [Local Government \(Access to Information\) Act 1985 \(c. 43, SIF 81:1, 2\), ss. 2\(1\), 3](#)

#### Modifications etc. (not altering text)

- C49** [Pt. IIIA](#) extended (with modifications.) (8.9.2000) by [2000 asp 10, s. 9, Sch. 2 para. 12; S.S.I. 2000/312, art. 2](#)

#### **50A Admission to meetings of local authorities.**

- (1) A meeting of a local authority shall be open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under subsection (2) below or by resolution under subsection (4) below.
- (2) The public shall be excluded from a meeting of a local authority during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during consideration of that item, confidential information would be disclosed to them in breach of the obligation of confidence; and nothing in this Part shall be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- (3) For the purposes of subsection (2) above, “confidential information” means—
- (a) information furnished to the authority by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and

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- (b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;
- and, in either case, the reference to the obligation of confidence is to be construed accordingly.
- (4) A local authority may by resolution exclude the public from a meeting during consideration of an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item of business there would be disclosure to them of exempt information, as defined in section 50J below.
- (5) A resolution under subsection (4) above shall—
- (a) identify the proceedings, or the part of the proceedings, to which it applies; and
  - (b) state the description, in terms of Schedule 7A to this Act, of the exempt information giving rise to the exclusion of the public,
- and where such a resolution is passed this section shall not require a meeting to be open to the public during proceedings to which the resolution applies.
- (6) The following provisions shall apply in relation to a meeting of a local authority, that is to say—
- (a) public notice of the time and place of the meeting shall be given by posting it at the offices of the authority three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;
  - (b) while the meeting is open to the public, the authority shall not have power to exclude members of the public from the meeting; and
  - (c) where the meeting is open to the public, duly accredited representatives of newspapers attending the meeting for the purpose of reporting the proceedings for those newspapers shall, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the authority or not connected to a public telecommunications system, for transmitting the report by means of such a system at their own expense.
- (7) Nothing in this section shall require a local authority to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.
- (8) This section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

**Modifications etc. (not altering text)**

**C50** S. 50A applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch. para. 3](#)

**50B Access to agenda and connected reports.**

- (1) Copies of the agenda for a meeting of a local authority and, subject to subsection (2) below, copies of any report for the meeting shall be open to inspection by members of the public at the offices of the authority in accordance with subsection (3) below.

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- (2) If the proper officer thinks fit, there may be excluded from the copies of reports provided in pursuance of subsection (1) above the whole of any report which, or any part which, relates only to items during consideration of which, in his opinion, the meeting is likely not to be open to the public.
- (3) Any document which is required by subsection (1) above to be open to inspection shall be so open at least three clear days before the meeting, except that—
- (a) where the meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened, and
  - (b) where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (or of the revised agenda), and the copies of any report for the meeting relating to the item shall be open to inspection from the time the item is added to the agenda;
- but nothing in this subsection or subsection (1) above requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the authority.
- (4) An item of business may not be considered at a meeting of a local authority unless either—
- (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public in pursuance of subsection (1) above for at least three clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
  - (b) by reason of special circumstances, which shall be specified in the minutes, the [F67 convener] of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- (5) Where by virtue of subsection (2) above the whole or any part of a report for a meeting is not open to inspection by the public under subsection (1) above—
- (a) every copy of the report or of the part shall be marked “Not for publication”; and
  - (b) there shall be stated on every copy of the whole or any part of the report the description, in terms of Schedule 7A to this Act, of the exempt information by virtue of which the authority are likely to exclude the public during consideration of the item to which the report relates.
- (6) Where a meeting of a local authority is required by section 50A above to be open to the public during the proceedings or any part of them, there shall be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and, subject to subsection (8) below, of the reports for the meeting.
- (7) There shall, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper—
- (a) a copy of the agenda for a meeting of a local authority and, subject to subsection (8) below, a copy of each of the reports for the meeting;
  - (b) such further statements or particulars, if any, as are necessary to indicate the nature of the items included in the agenda; and
  - (c) if the proper officer thinks fit in the case of any item, copies of any other documents supplied to members of the authority in connection with the item.

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- (8) Subsection (2) above applies in relation to copies of reports provided in pursuance of subsection (6) or (7) above as it applies in relation to copies of reports provided in pursuance of subsection (1) above.

#### Textual Amendments

**F67** Word in s. 50B(4)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(11); S.I. 1996/323, art. 4(1)(c)

#### Modifications etc. (not altering text)

**C51** S. 50B applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 50C Inspection of minutes and other documents after meetings.

- (1) After a meeting of a local authority the following documents shall be open to inspection by members of the public at the offices of the authority until the expiration of the period of six years beginning with the date of the meeting, namely—
- the minutes, or a copy of the minutes, of the meeting, excluding so much of the minutes of the proceedings during which the meeting was not open to the public as discloses exempt information;
  - where applicable, a summary under subsection (2) below;
  - a copy of the agenda for the meeting; and
  - a copy of so much of any report supplied to members of the authority for the meeting as relates to any item during consideration of which the meeting was open to the public.
- (2) Where, in consequence of the exclusion of parts of the minutes which disclose exempt information, the document open to inspection under subsection (1)(a) above does not provide members of the public with a reasonably fair and coherent record of the whole or part of the proceedings, the proper officer shall make a written summary of the proceedings or the part, as the case may be, which provides such a record without disclosing the exempt information.

#### Modifications etc. (not altering text)

**C52** S. 50C applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 50D Inspection of background papers.

- (1) Subject, in the case of section 50C(1), to subsection (2) below, if and so long as copies of the whole or part of a report for a meeting of a local authority are required by section 50B(1) or 50C(1) above to be open to inspection by members of the public—
- copies of a list, compiled by the proper officer, of the background papers for the report or the part of the report, and
  - at least one copy of each of the documents included in that list,
- shall also be open to such inspection at the offices of the authority.

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- (2) Subsection (1) above does not require a copy of the list, or of any document included in the list, to be open for inspection after expiration of the period of four years beginning with the date of the meeting.
- (3) Where a copy of any of the background papers for a report is required by subsection (1) above to be open to inspection by members of the public, the copy shall be taken for the purposes of this Part to be so open if arrangements exist for its production to members of the public as soon as is reasonably practicable after the making of a request to inspect the copy.
- (4) Nothing in this section—
  - (a) requires any document which discloses exempt information to be included in the list referred to in subsection (1) above; or
  - (b) without prejudice to the generality of subsection (2) of section 50A above, requires or authorises the inclusion in the list of any document which, if open to inspection by the public, would disclose confidential information in breach of the obligation of confidence, within the meaning of that subsection.
- (5) For the purposes of this section the background papers for a report are those documents relating to the subject matter of the report which—
  - (a) disclose any facts or matters on which, in the opinion of the proper officer, the report or an important part of the report is based, and
  - (b) have, in his opinion, been relied on to a material extent in preparing the report, but do not include any published works.

**Modifications etc. (not altering text)**

**C53** S. 50D applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**50E Application to committees and sub-committees.**

- (1) Sections 50A to 50D above shall apply in relation to—
  - (a) a committee or sub-committee of a local authority, [<sup>F68</sup>and]
  - (b) a committee (not falling within paragraph (a) above) constituted under an enactment specified in section 56(9) below or a sub-committee of such a committee, [<sup>F69</sup>and
  - <sup>F69</sup>(c) a relevant body, or a committee or sub-committee of such a body,]
 as they apply in relation to a local authority.
- (2) In the application by virtue of this section of sections 50A to 50D above in relation to a committee [<sup>F70</sup>, sub-committee or relevant body]—
  - (a) section 50A(6)(a) shall be taken to have been complied with if the notice is given by posting it at the time there mentioned at the offices of every constituent authority and if the meeting of the committee [<sup>F70</sup>, sub-committee or relevant body] to which that section so applies is to be held at premises other than the offices of such an authority, at those premises; and
  - (b) for the purposes of section 50A(6)(c), premises belonging to a constituent authority shall be treated as belonging to the committee [<sup>F70</sup>, sub-committee or relevant body]; and



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- (c) for the purposes of sections 50B(1), 50C(1) and 50D(1), offices of any constituent authority shall be treated as offices of the committee [<sup>F70</sup>, sub-committee or relevant body].
- (3) Any reference in subsection (2) above to a constituent authority is a reference to a local authority which (whether alone or with one or more other local authorities) .
- [<sup>F71</sup> in the case of a relevant body or a committee or sub-committee of such a body,
- (a) appointed the members of the relevant body;
- (b) in the case of any other committee, appointed the committee; or
- (c) in the case of any other sub-committee, appointed the committee of which that body is a sub-committee.]

#### Textual Amendments

- F68** Word in s. 50E(1)(a) shall cease to have effect (30.9.1996) by S.I. 1996/2278, art. 2(2)(a)(i)
- F69** S. 50E(1)(c) and the word “and” immediately preceding it inserted (30.9.1996) by S.I. 1996/2278, art. 2(2)(a)(ii)
- F70** Words in s. 50E(2) substituted (30.9.1996) by S.I. 1996/2278, art. 2(2)(b)
- F71** S. 50E(3)(a)-(c) substituted (30.9.1996) for words in S. 50E(3) by S.I. 1996/2278, art. 2(2)(c)

#### 50F Additional rights of access to documents for members of local authorities.

- (1) Any document which is in the possession or under the control of a local authority and contains material which relates to any business to be transacted or proceedings at a meeting of—
- (a) the authority or of a committee or sub-committee of the authority; [<sup>F72</sup>or]
- (b) a statutory committee appointed by the authority, or any sub-committee of that committee, [<sup>F73</sup>; or
- <sup>F73</sup>(c) a relevant body, any member of which was appointed by the authority, or of a committee or sub-committee of such a body]
- shall, subject to subsection (2) below, be open to inspection by any member of the authority and, in the case of a committee [<sup>F74</sup>, sub-committee or relevant body], by any other member of the committee [<sup>F74</sup>, sub-committee or relevant body].
- (2) Where it appears to the proper officer that a document discloses exempt information of a description for the time being falling within any of paragraphs 1 to 5, 7, 9, 11, 12 and 14 of Part I of Schedule 7A to this Act, subsection (1) above does not require the document to be open to inspection.
- (3) The Secretary of State may by order amend subsection (2) above—
- (a) by adding to the descriptions of exempt information to which that subsection refers for the time being; or
- (b) by removing any description of exempt information to which it refers for the time being.
- (4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The rights conferred by this section on a member of a local authority are in addition to any other rights he may have apart from this section.

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#### Textual Amendments

- F72** Word in s. 50F(1)(a) shall cease to have effect (30.9.1996) by S.I. 1996/2278, **art. 2(3)(a)**
- F73** S. 50F(1)(c) and the word “or” immediately preceding it inserted (30.9.1996) by S.I. 1996/2278, **art. 2(3)(b)**
- F74** Words in s. 50F(1) substituted (30.9.1996) by S.I. 1996/2278, **art. 2(3)(c)**

### 50G Local authorities to publish additional information.

- (1) A local authority shall maintain a register stating—
- (a) the name and address of each member of the authority for the time being and the electoral <sup>F75</sup> . . . ward which he represents; and
  - (b) the name and address of every member of each committee or sub-committee of the authority for the time being.
- (2) A local authority shall maintain a list—
- (a) specifying those powers of the authority which, for the time being, are exercisable from time to time by officers of the authority in pursuance of arrangements made under this Act or any other enactment for their discharge by those officers; and
  - (b) stating the title of the officer by whom each of the powers so specified is for the time being so exercisable;
- but this subsection does not require a power to be specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.
- (3) There shall be kept at the offices of every local authority a written summary of the rights—
- (a) to attend meetings of the authority and of committees and sub-committees of the authority, and
  - (b) to inspect and copy documents and to be furnished with documents,
- which are for the time being conferred by this Part, Part XI below and such other enactments as the Secretary of State by order specifies.
- (4) The register maintained under subsection (1) above, the list maintained under subsection (2) above and the summary kept under subsection (3) above shall be open to inspection by the public at the offices of the authority.

#### Textual Amendments

- F75** Words in s. 50G(1)(a) repealed (1.4.1996) by S.I. 1996/739, **art. 7(1)(2)**, Sch. 1 Pt. I para. 3(3), **Sch. 2**

### 50H Supplemental provisions and offences.

- (1) A document directed by any provision of this Part to be open to inspection shall be so open at all reasonable hours—
- (a) in the case of a document open to inspection by virtue of section 50D(1) above, upon payment of such reasonable fee as may be required for the facility; and
  - (b) in any other case, without payment.

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- (2) Where a document is open to inspection by a person under any provision of this Part, the person may, subject to subsection (3) below—
- (a) make copies of or extracts from the document,
  - (b) require the person having custody of the document to supply to him a photographic copy of or of extracts from the document,
- upon payment of such reasonable fee as may be required subject to any provision to the contrary in any other enactment or instrument.
- (3) Subsection (2) above does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is a local authority, nothing done in pursuance of that subsection shall constitute an infringement of the copyright.
- (4) If, without reasonable excuse, a person having the custody of a document which is required by section 50B(1) or 50C(1) above to be open to inspection by the public—
- (a) intentionally obstructs any person exercising a right conferred by this Part to inspect, or to make a copy of or extract from, the document, or
  - (b) refuses to furnish copies to any person entitled to obtain them under any provision of this Part,
- he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) Where any accessible document for a meeting to which this subsection applies—
- (a) is supplied to, or open to inspection by, a member of the public, or
  - (b) is supplied for the benefit of any newspaper, in pursuance of section 50B(7) above,
- the publication thereby of any defamatory matter contained in the document shall be privileged unless the publication is proved to be made with malice.
- (6) Subsection (5) above applies to any meeting of a local authority and any meeting of a committee or sub-committee as is mentioned in paragraph (a) or (b) of section 50E(1) above [<sup>F76</sup>and any meeting of a relevant body or of a committee or sub-committee of such a body]; and for the purposes of that subsection the “accessible documents” for a meeting are the following—
- (a) any copy of the agenda or of an item included in the agenda for the meeting;
  - (b) any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in section 50B(7)(b) above;
  - (c) any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of section 50B(7)(c) above;
  - (d) any copy of the whole or part of a report for the meeting;
  - (e) any copy of the whole or part of any background papers for a report for the meeting, within the meaning of section 50D above.
- (7) The rights conferred by this Part to inspect, copy and be furnished with documents are in addition, and without prejudice, to any such rights conferred by or under any other enactment.

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### Textual Amendments

**F76** Words in s. 50H(6) inserted (30.9.1996) by S.I. 1996/2278, art. 2(4)

## 50J Exempt information.

- (1) The descriptions of information which are, for the purposes of this Part, exempt information are those for the time being specified in Part I of Schedule 7A to this Act, but subject to any qualifications contained in Part II of that Schedule; and Part III has effect for the interpretation of that Schedule.
- (2) The Secretary of State may by order vary Schedule 7A to this Act by adding to it any description or other provision or by deleting from it or varying any description or other provision for the time being specified or contained in it.
- (3) Any statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Modifications etc. (not altering text)

**C54** S. 50J applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

## 50K Interpretation and application of Part IIIA.

- (1) In this Part—
  - “copy”, in relation to a document, includes a copy made from a copy;
  - “exempt information” has the meaning given by section 50J above;
  - “information” includes an expression of opinion, any recommendations and any decision taken;
  - “newspaper” includes—
    - (a) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and
    - (b) any organisation which is systematically engaged in collecting news—
      - (i) for sound or television broadcasts; or
      - (ii) for programmes to be included in a cable programme service which is or does not require to be licensed.
  - [<sup>F77</sup>“relevant body” means—
    - (a) a joint board; or
    - (b) the Strathclyde Passenger Transport Authority.]
- (2) References in this Part to a committee or sub-committee, in relation to a local authority, shall be construed in accordance with the following provisions—
  - (a) references to a committee of a local authority are references to a committee appointed under section 57 below by the authority or by two or more local authorities of which one is that authority and references to a sub-committee of a local authority are references to a sub-committee appointed by such a committee under that section; and
  - (b) references to a statutory committee appointed by a local authority are references to a committee constituted under an enactment specified in

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section 56(9) below other than a committee constituted under [<sup>F78</sup>either of the enactments] specified in paragraph (d) of that section and appointed by the authority or by two or more local authorities of which that authority is one and references to a sub-committee of such a statutory committee shall be construed accordingly.

- (3) Any reference in this Part to a meeting is a reference to a meeting commenced after the 1st April 1986.]

#### Textual Amendments

**F77** Definition of “relevant body” in s. 50K(1) inserted (30.9.1996) by S.I. 1996/2278, art. 2(5)

**F78** Words in s. 50K(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(12); S.I. 1996/323, art. 4(1)(c)

## PART IV

### COMMUNITY COUNCILS

#### Modifications etc. (not altering text)

**C55** Pt. IV extended by Local Government (Scotland) Act 1975 (c. 30), s. 16, Sch. 3 para. 1(1)

## 51 Establishment and general purpose of community councils.

- (1) Every local authority <sup>F79</sup> . . . shall, before 16th May 1976, or such later date as may be agreed by the Secretary of State, submit to the Secretary of State, in accordance with the provisions of this Part of this Act, a scheme for the establishment of community councils for their area.
- (2) In addition to any other purpose which a community council may pursue, the general purpose of a community council shall be to ascertain, co-ordinate and express to the local authorities for its area, and to public authorities, the views of the community which it represents, in relation to matters for which those authorities are responsible, and to take such action in the interests of that community as appears to it to be expedient and practicable.

<sup>F80</sup>(3) . . . . .

#### Textual Amendments

**F79** Words in s. 51(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

**F80** S. 51(3) repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

## 52 Schemes.

- (1) Every local authority shall give public notice of their intention to frame a scheme for the establishment of community councils, and any such notice shall invite the public,

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within a period of not less than eight weeks from the date of the notice, to make suggestions as to the areas and composition of the community councils.

- (2) After considering suggestions made under subsection (1) above, the local authority shall prepare and give public notice of a draft scheme which shall contain—
  - (a) a map showing the boundaries of the proposed areas of community councils and their populations, and the boundaries of any area for which the local authority consider a community council to be unnecessary;
  - (b) where a local authority consider that a community council is unnecessary for any area, a statement of their reasons for arriving at this conclusion;
  - (c) provisions relating to qualifications of electors, elections or other voting arrangements, composition, meetings, financing and accounts of community councils;
  - (d) provisions concerning the procedures to be adopted by which the community councils on the one hand and the local and public authorities with responsibilities in the areas of the community councils on the other will keep each other informed on matters of mutual interest; and
  - (e) such other information as, in the opinion of the local authority, would help the public to make a reasonable appraisal of the scheme.
- (3) The notice mentioned in subsection (2) above shall invite the public, within a period of not less than eight weeks from the date of the notice, to make to the local authority representations as respects the draft scheme.
- (4) After considering any representations made under subsection (3) above, the local authority may amend the draft scheme to take account of those representations and shall submit the scheme to the Secretary of State for his approval along with any outstanding representations and their comments upon them.
- (5) The Secretary of State, after holding, if he thinks fit, a local inquiry in relation to the whole scheme or any part thereof, may approve, with or without modifications, a scheme submitted to him under subsection (4) above, or may refer the scheme back, in whole or in part, for further consideration by the local authority concerned.
- (6) After the Secretary of State has approved a scheme, the local authority shall give public notice of the scheme in its approved form together with public notice of such a scheme as it applies to each proposed area, by exhibition in that area, and any such notice shall contain an invitation to electors in the area concerned to apply in writing to the local authority for the establishment of a community council in accordance with the scheme.
- (7) Where not less than 20 electors apply as mentioned in subsection (6) above, the local authority shall, within not more than six weeks from the date of the application, organise, in accordance with the scheme, elections or other voting arrangements for the purpose of establishing the community council.

### **53 Amendment of schemes.**

- (1) Having regard to changing circumstances and to any representations made to them, every local authority shall from time to time review schemes made and approved under section 52 of this Act and, where they consider that such a scheme ought to be amended, they shall give public notice of their proposals, inviting any community council concerned and the public to make to the local authority representations as respects the proposals.

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[<sup>F81</sup>(2) The local authority shall consider any representations made under subsection (1) above and may amend the scheme in accordance with—

- (a) the notified proposals; or
- (b) those proposals as amended to take account of any such representations:

Provided that the scheme shall not be amended under paragraph (b) of this subsection unless public notice of the amendments to the proposals has been given with a further invitation to make representations under subsection (1) above.

(3) A decision of the local authority—

- (a) to review, under subsection (1) above; or
- (b) to amend, under subsection (2) above,

a scheme, shall be by resolution passed by not less than two-thirds of the members voting thereon at a local authority meeting specially convened for the purpose with notice of the object.]

<sup>F82</sup>(4) .....

**Textual Amendments**

**F81** S. 53(2)(3) substituted for s. 53(2)–(4) by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), s. 25, Sch. 2 para. 31\(1\)](#) by Sch. 2 para. 3(2) it is provided that [para. 31\(1\)](#) has no effect as regards the operation of s. 53 in relation to proposals which were submitted to the Secretary of State before 11.6.1981 under s. 53(3))

**F82** S. 53(4) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), s. 25, Sch. 2 para. 31\(2\), Sch. 4](#) (by Sch. 2 para. 31(2) it is provided that [para. 31\(1\)](#) and, in so far as relating to s. 53, Sch. 4 to that Act have no effect as regards the operation of s. 53 in relation to proposals which, before 11.6.1981, were submitted to the Secretary of State under s. 53(3))

<sup>F83</sup>54 .....

**Textual Amendments**

**F83** S. 54 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\), Sch. 4](#)

**55 Assistance to community councils.**

<sup>F84</sup> . . . [<sup>F85</sup>councils for local government areas] may make such contributions as they think fit towards the expenses of community councils within their areas, may make loans to those councils and may, at the request of such community councils, provide them with staff, services, accommodation, furniture, vehicles and equipment, on such terms as to payment or otherwise as may be agreed between the councils concerned.

**Textual Amendments**

**F84** Words repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), Sch. 4 Pt. I](#)

**F85** Words in s. 55 substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 92\(13\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

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## PART V

### INTERNAL ORGANISATION

#### Modifications etc. (not altering text)

**C56** Pt. V (ss. 56-68): Power to apply conferred (6.4.1995) by 1994 c. 39, s. 27(9); S.I. 1995/702, art. 4(1), Sch. 2 para. 9 (with s. 7(2))

#### *Discharge of functions*

#### **56 Arrangements for discharge of functions by local authorities.**

(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland.

[<sup>F86</sup>(2) Where by virtue of this section any function of a local authority may be discharged by any committee or sub-committee of theirs, then, unless the local authority otherwise direct—

- (a) the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority; and
- (b) the sub-committee, whether assigned the discharge of functions by the authority or by a committee, may arrange for the discharge of any such functions by an officer of the authority.]

(3) Where by virtue of this section any functions of a local authority may be discharged by another local authority, subsections (1) and (2) above shall apply in relation to those functions as they apply in relation to the functions of that other authority, except that—

- (a) the foregoing provision shall have effect subject to the terms of the arrangement relating to the functions; and
- (b) that other authority shall not, by virtue of this subsection, arrange for the discharge of those functions by some other local authority.

(4) Any arrangement made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangement is made from exercising those functions.

(5) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so,—

- (a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them, and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities; and
- (b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.



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- [<sup>F87</sup>(6) A local authority's functions with respect to—
- <sup>F88</sup>(a) .....
  - (b) setting an amount of council tax in accordance with section 93(1) of the Local Government Finance Act 1992, or setting a reduced amount of council tax under section 94 of that Act or paragraph 3 of Schedule 7 to that Act;
  - <sup>F88</sup>(c) .....
  - (d) borrowing money,
- shall be discharged only by the authority.]
- (7) A local authority shall not make arrangements under this section for the discharge of any of their functions under [<sup>F89</sup>the <sup>M8</sup>Animal Health Act 1981] by any other local authority.
- (8) Any enactment, except one mentioned in subsection (9) below, which contains any provision—
- (a) which empowers or requires local authorities or any class of local authorities to establish committees (including joint committees) for any purpose or enables a Minister to make an instrument establishing committees of local authorities for any purpose, or empowering or requiring a local authority or any class of local authorities to establish committees for any purpose; or
  - (b) which empowers or requires local authorities or any class of local authorities to arrange or to join with other authorities in arranging for the exercise by committees so established or by officers of theirs of any of their functions or provides that any specified functions of theirs shall be discharged by such committees or officers, or enables any Minister to make an instrument conferring such a power, imposing such a requirement or containing such a provision;
- shall, to the extent that it makes any such provision, cease to have effect.
- (9) The following enactments are exempted from subsection (8) above—
- (a) section 36 of the <sup>M9</sup>Fire Service Act 1947 so far as relating to administration schemes;
  - (b) sections 19, 20, [<sup>F90</sup>and 21] of the <sup>M10</sup>Police (Scotland) Act 1967 (amalgamation schemes);
  - <sup>F91</sup>(c) .....
  - [<sup>F92</sup>(d) paragraphs 3 and 8 of Schedule 1 to the Children (Scotland) Act 1995 (Children's Panel Advisory Committees and joint advisory committees);]
  - (e) section 7 of the <sup>M11</sup>Superannuation Act 1972 (superannuation of persons employed in local government service, etc.);
  - (f) section 9 of the said Act of 1972 (superannuation of teachers).
- (10) This section shall not authorise a local authority to arrange for the discharge by any committee, sub-committee or local authority of any functions which, by any enactment mention in subsection (9) above, are required or authorised to be discharged by a specified committee, but the foregoing provision shall not prevent a local authority who are required by or under any such enactment to establish, or delegate functions to, a committee established by or under any such enactment from arranging under this section for the discharge of their functions by an officer of the local authority or committee, as the case may be.

<sup>F93</sup>(11) .....

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- (14) References in this section and section 57 below to the discharge of any of the functions of a local authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.
- (15) Nothing in this section affects the operation of the <sup>M12</sup>Local Authorities (Goods and Services) Act 1970.

#### Textual Amendments

- F86** S. 56(2) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 32
- F87** S. 41(6) substituted (1.10.1992) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 36**; S.I. 1992/2183, **art. 2(c)** (with art. 3).
- F88** S. 56(6)(a)(c) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(14)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F89** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 17(2)(a)
- F90** Words in s. 56(9)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(14)(b)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F91** S. 56(9)(c) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(14)(b)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F92** S. 56(9)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 22(2)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**
- F93** S. 56(11)–(13) repealed by Statute Law (Repeals) Act 1981 (c. 19), **Sch. 1 Pt. VII**

#### Modifications etc. (not altering text)

- C57** S. 56 excluded by Lotteries and Amusements Act 1976 (c. 32), s. 6(3).
- C58** S. 56 excluded by Local Government and Housing Act (c. 42, SIF: 81:1, 2), ss. 4(5), 5(5)
- C59** S. 56 restricted (16.1.1990 to the extent mentioned in S.I. 1989/2445, **art. 4** and 1.8.1990 to the extent mentioned in S.I. 1990/1552, **art. 3** and otherwise prosp.) by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), ss. 9(8)(b)(10), 195(2)
- C60** S. 56 modified (1.4.1996) by 1967 c. 77, s. 9 (as inserted (1.4.1996) by 1994 c. 29, s. 49; S.I. 1995/492, art. 3, **Sch. 2**)
- C61** S. 56(1) extended by Local Government (Scotland) Act 1975 (c. 30), s. 23(1); excluded by Civic Government (Scotland) Act 1982 (c. 45), s. 117(6)
- C62** S. 56(5): Power to direct conferred (1.2.1996) by 1995 c. 25, s. 90, **Sch. 11 para. 3(1)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**  
S. 56(5): Power to restrict conferred (1.2.1996) by 1995 c. 25, s. 90, **Sch. 11 para. 3(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**

#### Marginal Citations

- M8** 1981 c. 22.
- M9** 1947 c. 41.
- M10** 1967 c. 77.
- M11** 1972 c. 11.
- M12** 1970 c. 39.

## 57 Appointment of committees.

- (1) For the purpose of discharging any functions of a local authority in pursuance of arrangements made under section 56 of this Act—
- (a) the authority may appoint a committee of the authority; or

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- (b) two or more local authorities may appoint a joint committee of those authorities; or
  - (c) any such committee may appoint one or more sub-committees.
- (2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority, shall be fixed by the appointing authority or authorities or, in the case of a sub-committee, by the appointing committee.
- (3) A committee appointed under subsection (1) above, other than a committee for regulating and controlling the finance of the local authority or of their area may, subject to section 59 below, include persons who are not members of the appointing authority or authorities or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee, [<sup>F94</sup>but at least two-thirds of the members appointed to any such committee (other than a sub-committee) shall be members of that authority or those authorities, as the case may be.]
- (4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities on any matter relating to the discharge of their functions, and any such committee—
- (a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and
  - (b) may appoint one or more sub-committees to advise the committee with respect to any such matter.
- (5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall, upon ceasing to be a member of that authority, also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

#### Textual Amendments

**F94** Words repealed (16.1.1990 to the extent mentioned in S.I. 1989/2445, art. 4 and otherwise prosp. (with saving)) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 14(6)(8)(a), 194(4), 195(2), Sch. 12 Pt. II

#### Modifications etc. (not altering text)

**C63** S. 57 excluded by Water (Scotland) Act 1980 (c. 45), s. 3(4)

**C64** S. 57 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

## 58 Expenses of joint committees.

The expenses incurred by a joint committee appointed under this Part of this Act or any other enactment shall be defrayed by the appointing local authorities in such proportions as they may agree or, in the case of disagreement, as may be determined by the Secretary of State.

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**Modifications etc. (not altering text)**

C65 S. 58 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**59 Disqualification for membership of committees and joint committees.**

- (1) Subject to section 126 of this Act, a person who is disqualified under Part III of this Act for being elected or being a member of a local authority shall be disqualified for being a member of a committee (including a sub-committee) of that authority, or being a representative of that authority on a joint committee of the authority and another local authority, whether the committee or joint committee are appointed under this Act or under any other enactment.
- (2) Section 32 of this Act shall, so far as applicable, apply with respect to membership of or a claim to be entitled to act as a member of a committee or sub-committee of a local authority or of a joint committee appointed by local authorities as it applies to membership of or claims to be entitled to act as a member of a local authority.

**Modifications etc. (not altering text)**

C66 S. 59(1) applied (with modifications) (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**60 Disability for voting on account of interests in contracts, etc.**

Sections 38 to 42 of this Act shall apply as respects members of a committee or sub-committee of a local authority or of any joint committee appointed by two or more local authorities, whether the committee, sub-committee or joint committee are appointed under this Act or under any other enactment, as they apply in respect of members of local authorities, subject to the following modifications—

- (a) as respects members of a committee or sub-committee, references to meetings of the committee or sub-committee shall be substituted for references to meetings of the local authority; and
- (b) as respects members of a joint committee, references to meetings of the joint committee shall be substituted for references to meetings of the local authority.

**Modifications etc. (not altering text)**

C67 S. 60 applied (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, Sch., s. 3, Sch. 1 Pt. 1 para.5  
S. 60 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**61 Membership of bodies to cease on ceasing to be member of authority.**

Where a local authority by virtue of any enactment of instrument or otherwise appoint a member of the authority to be a member of any court or body, then, unless otherwise specifically provided in the enactment or instrument regulating the constitution of the court or body, the person so appointed shall cease to be a member of the court or body on ceasing to be a member of the authority.

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**Modifications etc. (not altering text)**

C68 S. 61 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

## 62 Standing orders, etc.

A local authority appointing a committee, and local authorities appointing a joint committee, either under this Act or under any other enactment, may make, vary or revoke standing orders respecting the quorum, proceedings and place of meeting of the committee, joint committee or any sub-committee of any such committee, but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee, joint committee or sub-committee may determine.

**Modifications etc. (not altering text)**

C69 S. 62 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

## [<sup>F95</sup>62A Incorporation of joint committees.

(1) Where—

- (a) arrangements are made (whether under this Act or any other enactment) for two or more local authorities (in this Part of this Act referred to as “the relevant authorities”) to discharge any of their functions, or any functions in any area, jointly;
- (b) the relevant authorities have—
  - (i) appointed, or propose to appoint, a joint committee to discharge those functions; and
  - (ii) advertised their proposals in accordance with subsection (2) below;and
- (c) application is made, in writing, to the Secretary of State by the relevant authorities for the incorporation of that joint committee (or proposed joint committee) as a joint board to carry out those functions,

the Secretary of State may by order establish a joint board in accordance with this section to discharge those functions.

(2) Before applying to the Secretary of State under subsection (1)(c) above, the relevant authorities shall place in at least one daily newspaper circulating in their areas an advertisement—

- (a) giving brief details of what they propose to do;
- (b) giving an address to which representations about the proposal may be sent; and
- (c) fixing a date, being not less than 8 weeks after the date on which the advertisement appears, within which representations may be made,

and they shall include with their application evidence that an advertisement has been placed.

(3) Where any representations are timeously made in response to an advertisement placed in accordance with subsection (2) above, the relevant authorities shall consider them and shall include with their application a statement that they have done so.

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- (4) An order under subsection (1) above shall delegate to the joint board such of the functions of the relevant authorities as may be specified in the order and may include provision with respect to—
- (a) the constitution and proceedings of the joint board;
  - (b) matters relating to the membership of the joint board;
  - (c) the transfer to the joint board of any property, rights and liabilities of the relevant authorities;
  - (d) the transfer to the joint board of any staff of the relevant authorities;
  - (e) the supply of services or facilities by the relevant authorities to the joint board,
- and may, without prejudice to the generality of paragraphs (a) to (e) above, apply (with or without modifications) any of the provisions of Part V of this Act to a joint board as those provisions apply to a joint committee.
- (5) A joint board established under this section shall be a body corporate and shall have a common seal.
- (6) An order under subsection (1) above shall be in terms agreed by the relevant authorities.
- (7) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F95** Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

#### <sup>F96</sup> 62B Power of Secretary of State to establish joint boards.

- (1) Where the Secretary of State considers—
- (a) that any functions, or any functions in any area, of the relevant authorities should be discharged jointly by those authorities; and
  - (b) that arrangements, or satisfactory arrangements, for the joint discharge of those functions—
    - (i) have not been made by the relevant authorities; or
    - (ii) have ceased to be in operation,
- he may, after consulting the relevant authorities, by order establish a joint board in accordance with this section.
- (2) Subsections (4) and (5) of section 62A of this Act shall apply to a joint board established under this section as they apply to a joint board established under that section with the substitution of a reference to subsection (1) of this section for the reference to subsection (1) of that section.
- (3) No order shall be made under subsection (1) above unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.

#### Textual Amendments

**F96** Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

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### <sup>F97</sup>62C Further provisions relating to joint boards.

- (1) Where a joint board has been established by order under section 62A or 62B of this Act, the Secretary of State may by order provide—
  - (a) for excluding any functions, or any functions in any area, from those specified in the order establishing that joint board; and
  - (b) for the dissolution of the joint board.
- (2) An order shall not be made under subsection (1) above unless the Secretary of State has consulted the relevant authorities.
- (3) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make an order under this section or section 62A or 62B of this Act shall include power to make such transitional, incidental, supplemental or consequential provision as the Secretary of State thinks necessary or expedient.
- (5) An order under this section or section 62A or 62B of this Act may, for the purpose of making such provision as is mentioned in subsection (4) above—
  - (a) apply with or without modifications;
  - (b) extend, exclude or amend; or
  - (c) repeal or revoke with or without savings,any enactment or any instrument made under any enactment.

#### Textual Amendments

<sup>F97</sup> Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

### 63 Application of foregoing provisions of Part V to police authorities and joint police committees.

- (1) Subsections (2) to (4) below shall have effect for the purposes of the application of the foregoing provisions of this Part of this Act to a local authority in relation to their functions as a police authority
- (2) A police authority may not arrange under section 56(1) of this Act for the discharge of any of their functions by another police authority<sup>F98</sup>. . . .
- [<sup>F99</sup>(2A) The officers who may discharge functions of a police authority in pursuance of arrangements under section 56(1) or (2) of this Act shall include the chief constable of the police force.
- (2B) Where, pursuant to arrangements made by virtue of subsection (2A) above, a chief constable may discharge functions of a police authority, he may himself arrange for the discharge of any of the functions in question by a constable of the police force or by a person who is employed by the authority but is not under their direction and control.]
- (3) The following provisions of this Part of this Act shall not apply to a police authority—
  - (a) in section 56, subsections (3), (5) and (10),
  - (b) section 57(1)(b).
  - [<sup>F100</sup>(c) sections 62A to 62C.]

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- (4) Section 62 of this Act shall not apply in a case where a [<sup>F101</sup>joint police board] are constituted by or under an amalgamation scheme made under Part I of the <sup>M13</sup>Police (Scotland) Act 1967.
- (5) Subsections (1) and (2) of section 56 of this Act shall apply to a [<sup>F101</sup>joint police board] as they apply to a local authority except that—
- (a) they may not arrange for the discharge of any of their functions by another [<sup>F101</sup>joint police board] or a police authority <sup>F102</sup>. . . , or
  - (b) if the function relates to part only of the combined area in respect of which the [<sup>F103</sup>board] are exercising functions, they may not arrange for the discharge of that function by any other person.

#### Textual Amendments

- F98** Words in s. 63(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(15)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F99** S. 63(2A)(2B) inserted (1.4.1996) by 1994 c. 29, s. 64; S.I. 1995/492, art. 3, **Sch. 2**
- F100** S. 63(3)(c) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(15)(b)**; S.I. 1996/323, art. 4(1)(c)
- F101** Words in s. 63(4)(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(15)(c)**; S.I. 1996/323, art. 4(1)(c)
- F102** Words in s. 63(5)(a) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(15)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F103** Words in s. 63(5)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(15)(e)**; S.I. 1996/323, art. 4(1)(c)

#### Modifications etc. (not altering text)

- C70** S. 63 modified (1.4.1996) by 1967 c. 77, s. 9 (as inserted (1.4.1996) by 1994 c. 29, s. 49; S.I. 1995/492, art. 3, **Sch. 2**)

#### Marginal Citations

- M13** 1967 c. 77.

#### [<sup>F104</sup>63A Sections 62A to 62C not to apply to fire authority.

Sections 62A to 62C of this Act shall not apply to a local authority in relation to their functions as a fire authority.]

#### Textual Amendments

- F104** S. 63A inserted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(16); S.I. 1996/323, art. 4(1)(c)

#### Staff

#### 64 Appointment etc. of staff.

- (1) Subject to the provisions of this Act, a local authority shall appoint such officers as they think necessary for the proper discharge by the authority of their functions and



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the carrying out of any obligations incurred by them in connection with an agreement made by them in pursuance of section 65 of this Act.

- (2) An officer appointed under subsection (1) above shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the authority appointing him think fit.
- (3) Where an action has been brought against an officer of a local authority in respect of an act done by him in the execution or purported execution of any enactment and the circumstances are such that he is not legally entitled to require the authority to indemnify him, the authority may nevertheless indemnify him against the whole or a part of any damages or expenses which he may have been ordered to pay or may have incurred if they are satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under the enactment required or entitled him to do it.
- (4) Any enactment, except one mentioned in subsection (5) below, which requires or empowers local authorities or any class of local authorities to appoint a specified officer shall, to the extent that it makes any such provision, cease to have effect.
- (5) The following enactments are excepted from subsection (4) above—
  - (a) sections 18 and 19 of the <sup>M14</sup>Fire Services Act 1947 (chief officers and members of fire brigades);
  - <sup>F105</sup>(b) .....
  - <sup>F106</sup>(bb) section 9 of the Mental Health (Scotland) Act 1984 (appointment of mental health officers);]
  - <sup>F107</sup>(c) .....
  - <sup>F108</sup>(d) .....
  - (e) section 3 of the <sup>M15</sup>Social Work (Scotland) Act 1968 (<sup>F109</sup>chief social work officers);
  - <sup>F107</sup>(f) .....
  - (g) section 67(3)(b) of the <sup>M16</sup>Agriculture Act 1970 (agricultural analysts and deputies).
- (6) Nothing in this section affects the operation of section 7 of the <sup>M17</sup>Registration of Births, Deaths and Marriages (Scotland) Act 1965 (registrars) or the operation of the <sup>M18</sup>Local Authorities (Goods and Services) Act 1970.
- (7) Nothing in subsections (1) and (2) above affects the operation of section 9 of the <sup>M19</sup>Police (Scotland) Act 1967 (employees other than constables).

#### Textual Amendments

**F105** S. 64(5)(b) repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. XI**

**F106** S. 64(5)(bb) substituted by virtue of Mental Health (Scotland) Act 1984 (c. 36, SIF 85), s. 127(1), **Sch. 3 para. 21**

**F107** S. 64(5)(c)(f) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(17)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F108** S. 64(5)(d) repealed by Weights and Measures Act 1985 (c. 72, SIF 131), s. 98, **Sch. 13 Pt. I**

**F109** Words in s. 64(5)(e) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(17)(b)**; S.I. 1996/323, **art. 4(1)(c)**

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#### Modifications etc. (not altering text)

**C71** S. 64(3) extended with modifications by S.I. 1987/800, **reg. 20(2)**

#### Marginal Citations

**M14** 1947 c. 41.

**M15** 1968 c. 49.

**M16** 1970 c. 40.

**M17** 1965 c. 49.

**M18** 1970 c. 39.

**M19** 1967 c. 77.

### 65 Placing of staff of local authorities at disposal of other local authorities.

- (1) Without prejudice to any powers exercisable apart from this section, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former, but shall not enter into any such agreement with respect to any officer without consulting him.
- (2) For superannuation purposes, service rendered by an officer of a local authority whose services are placed at the disposal of another local authority in pursuance of this section is service rendered to the authority by whom he is employed, but any such officer shall be treated for the purposes of any enactment relating to the discharge of local authorities' functions as an officer of that other local authority.

#### Modifications etc. (not altering text)

**C72** S. 65 extended (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 3**; S.S.I. 2000/312, **art. 2**

**C73** S. 65 applied (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, **Sch. Pt. VIII s.63**

S. 65 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2, Sch. para. 3**

### 66 Security to be taken in relation to officers.

- (1) A local authority shall, in the case of an officer employed by them, whether under this or any other enactment, who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may, in the case of any other officer employed by them, take such security for his duly accounting for all money or property which may be entrusted to him, as the local authority consider sufficient.
- (2) A local authority may, in the case of a person not employed by them but who is likely to be entrusted with the custody or control of money or property belonging to the local authority, take such security as they think sufficient for the person duly accounting for all such money or property.
- (3) A local authority shall defray the cost of any security taken under this section, and every such security shall be produced to the auditor at the audit of the accounts of the local authority.

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#### Modifications etc. (not altering text)

C74 S. 66 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 67 Members of local authorities not to be appointed as officers.

A person shall, so long as he is, and for twelve months after he ceases to be, a member of a local authority, be disqualified for being appointed by that authority to any paid office, other than to the office of [<sup>F110</sup>convener or depute convener].

#### Textual Amendments

F110 Words in s. 67 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(18); S.I. 1996/323, art. 4(1)(c)

### 68 Disclosure by officers of interest in contracts.

- (1) If it comes to the knowledge of an officer employed whether under this Act or any other enactment, by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall, as soon as practicable, give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 39 of this Act had he been a member of the authority.

- (2) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
- (3) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding [<sup>F111</sup>level 4 on the standard scale].
- (4) References in this section to a local authority shall include references to a joint committee appointed under section 57 of this Act or any other enactment.

#### Textual Amendments

F111 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

#### Modifications etc. (not altering text)

C75 S. 68 applied (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. civ), s. 1 Sch. Pt. III s.9  
S. 68 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

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## PART VI

### MISCELLANEOUS POWERS OF LOCAL AUTHORITIES

#### *Subsidiary powers*

#### **69 Subsidiary powers of local authorities.**

- (1) Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- (2) A local authority shall not by virtue of this section raise money, whether by means of rates or borrowing, or lend money except in accordance with the enactments relating to those matters respectively.
- (3) Without prejudice to section 53 of the <sup>M20</sup>Countryside (Scotland) Act 1967 (contributions by or to local authorities), two or more local authorities may make arrangements for defraying any expenditure incurred by one of them in exercising any functions exercisable by both or all of them.

<sup>F112</sup>(4) .....

#### **Textual Amendments**

**F112** S. 69(4) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

#### **Modifications etc. (not altering text)**

**C76** S. 69 modified (24.7.2006) by *Waverley Railway (Scotland) Act 2006 (asp 13)*, s. 39 (with ss. 50(2), 51)

#### **Marginal Citations**

**M20** 1967 c. 86.

#### *Land transactions*

#### **70 Acquisition of land by agreement.**

- (1) For the purposes of—
  - (a) any of their functions under this or any other enactment, or
  - (b) the benefit, improvement or development of their area,
 a local authority may acquire by agreement any land, whether situated inside or outside their area.
- (2) A local authority may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the

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purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the authority's functions.

- (3) For the purpose of the purchase of land by agreement by a local authority, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the <sup>M21</sup>Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the <sup>M22</sup>Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the <sup>M23</sup>Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this section, and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the local authority shall be deemed to be the promoters of the undertaking or company, as the case may require.
- (4) Where two or more local authorities acting together would have power to acquire any land by agreement by virtue of this section, nothing in any enactment shall prevent one of those authorities from so acquiring the land on behalf of both or all of them in accordance with arrangements made between them, including arrangements as to the subsequent occupation and use of the land.
- (5) References in the foregoing provisions of this section to acquisition are references to acquisition by purchase, feu, lease or excambion.

**Modifications etc. (not altering text)**

C77 S. 70 extended by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 10(1), 335

C78 S. 70 amended (*temp.* from 4.1.1995 until 1.4.1996) by [1994 c. 39, s. 182\(1\)\(a\)](#); S.I. 1994/2850, art. 3(a), [Sch. 2](#)

**Marginal Citations**

M21 1845 c. 19.

M22 1845 c. 33.

M23 1923 c. 20.

## 71 Acquisition of land compulsorily.

- (1) Subject to subsection (2) below, for the purposes of any of their functions under this or any other enactment, a local authority may be authorised by the Minister concerned with the function in question to purchase compulsorily any land, whether situated inside or outside their area.
- (2) A local authority may not be authorised under subsection (1) above to purchase land compulsorily for any purpose in relation to which their power of acquisition is by any enactment expressly limited to acquisition by agreement.
- (3) Where one or more local authorities propose, in exercise of the power conferred by subsection (1) above, to acquire any land for more than one purpose, the Minister or Ministers whose authorisation is required for the exercise of that power shall not be concerned to make any apportionment between those purposes nor, where there is more than one local authority, between those authorities, and—
  - (a) the purposes shall be treated as a single purpose and the compulsory acquisition shall be treated as requiring the authorisation of the Minister, or the joint authorisation of the Ministers, concerned with those purposes; and

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- (b) where there is more than one local authority concerned, the authorities may nominate one of them to acquire the land on behalf of them all and the authority so nominated shall accordingly be treated as the acquiring authority for the purposes of any enactment relating to the acquisition.
- (4) The <sup>M24</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land in pursuance of subsection (1) above as if that subsection were contained in an Act in force immediately before the commencement of that Act.

**Modifications etc. (not altering text)**

**C79** S. 71 amended (*temp.* from 4.1.1995 until 1.4.1996) by 1994 c. 39, s. 182(1)(b); S.I. 1994/2850, art. 3(a), Sch. 2

**C80** S. 71 applied (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), ss. 4, 90, Sch. 1 para. 2(2) (with s. 77); S.S.I. 2005/392, art. 2(k)

**Marginal Citations**

**M24** 1947 c. 42.

**72 Title to land.**

The title to all land acquired by a local authority shall be taken in the corporate name of the authority.

**73 Appropriation of land.**

- (1) Subject to Part II of the <sup>M25</sup>Town and Country Planning (Scotland) Act 1959 and to the following provisions of this section, a local authority may appropriate for the purpose of any function, whether statutory or otherwise, land vested in them for the purpose of any other such function.
- (2) A local authority may not exercise their power of appropriation under subsection (1) above with respect to any land specified in subsection [F113(3)] below except with the consent of the Secretary of State.
- (3) The land to which subsection (2) above applies is [F114]land which] is held for use as allotments.

**Textual Amendments**

**F113** Word substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Sch. 2 para. 33(a)

**F114** Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Sch. 2 para. 33(b)

**Marginal Citations**

**M25** 1959 c. 70.

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## 74 Disposal of land.

- (1) Subject to Part II of the <sup>M26</sup>Town and Country Planning (Scotland) Act 1959 and to subsection (2) below, a local authority may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Secretary of State, a local authority shall not dispose of land under subsection (1) above for a consideration less than the best that can reasonably be obtained.

<sup>F115</sup>(3) .....

### Textual Amendments

**F115** S. 74(3) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

### Modifications etc. (not altering text)

- C81** S. 74 applied with modifications by Housing (Scotland) Act 1987 (c. 26, SIF 61), **ss. 12(9)(10)**, 335
- C82** S. 74 excluded by Self Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s. 43(4)**
- C83** S. 74 excluded (16.5.1992) by Further and Higher Education (Scotland) Act 1992 (c. 37), **s. 28(6)** (with s. 30(2)); S.I. 1992/817, art. 3(2), **Sch. 1**.
- C84** S. 74(2) excluded by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 26(5)(a)**

### Marginal Citations

**M26** 1959 c. 70.

74A ..... <sup>F116</sup>

### Textual Amendments

**F116** S. 74A repealed by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 34 Pt. XIII**

## 75 Disposal, etc., of land forming part of the common good.

- (1) The provisions of this Part of this Act with respect to the appropriation or disposal of land belonging to a local authority shall apply in the case of land forming part of the common good of an authority with respect to which land no question arises as to the right of the authority to alienate.
- (2) Where a local authority desire to dispose of land forming part of the common good with respect to which land a question arises as to the right of the authority to alienate, they may apply to the Court of Session or the sheriff to authorise them to dispose of the land, and the Court or sheriff may, if they think fit, authorise the authority to dispose of the land subject to such conditions, if any, as they may impose, and the authority shall be entitled to dispose of the land accordingly.
- (3) The Court of Session or sheriff acting under subsection (2) above may impose a condition requiring that the local authority shall provide in substitution for the land proposed to be disposed of other land to be used for the same purpose for which the former land was used.

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**76 Special provisions as to land acquired for public recreation from heir of entail.**

Where an heir of entail in possession of land disposes of land to a local authority for the purpose of public recreation under the provisions of this Act or any other enactment (not being land within a quarter of a mile of the mansion house in the natural possession of the heir of entail or part of any garden, orchard or enclosure adjacent to the mansion house which has usually been in the natural possession of the proprietor) and such land does not exceed in all twenty acres, and where the persons in right of heritable securities or other charges affecting such land refuse to consent to such disposal, such lands shall be disburdened of the said heritable securities and charges if the sheriff, upon the application of the heir of entail in possession duly intimated to the said persons who shall be entitled to appear and object, finds that the lands comprised in the heritable securities or charges other than the land being acquired by the local authority afford adequate security.

**77 Payment of purchase or compensation money by one local authority to another.**

Any purchase money or compensation payable in pursuance of this Part of this Act by a local authority in respect of land acquired from another local authority which would but for this section be required to be paid into court in manner provided by the Lands Clauses Acts may, if the Minister concerned with the purpose for which the land was held by the last mentioned authority consents, instead of being paid into court, be paid and applied as that Minister may determine, and the decision of that Minister shall be final.

*Buildings, contracts, etc.*

**78 Power to erect buildings, etc.**

- (1) Subject to subsection (2) below and section 94 of this Act, a local authority may, for the purpose of any of their functions or for the benefit or improvement of their area, erect buildings or execute any other works on any land belonging to them or, where they are satisfied that the terms of the lease of land are such as to make it prudent for them to do so, on land leased by them, or convert, alter, enlarge or improve any existing building or other works belonging to them or, where they consider it prudent, any existing building or other works let to them.
- (2) Subsection (1) above shall not of itself authorise a local authority to do anything contrary to the conditions contained in the title to or lease of any such land or building or other works or authorise land held for one purpose to be used for another purpose.

**Modifications etc. (not altering text)**

**C85** Ss. 78-81 applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), [Sch. 1 para. 16\(1\)\(c\)](#); [S.S.I. 2005/454](#), [art. 2](#), [Sch. 2](#)

**79 Provision of offices, etc.**

A local authority may acquire or provide and furnish and maintain halls, offices and other buildings, whether within or without the area of the authority, to be used for the purpose of transacting the business of the authority or the business of any other



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body for which the authority are required or authorised by or under any enactment to provide accommodation, or for the purpose of public meetings or assemblies.

**Modifications etc. (not altering text)**

- C86** Ss. 78-81 applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), [Sch. 1 para. 16\(1\)\(c\)](#); S.S.I. 2005/454, [art. 2](#), Sch. 2
- C87** S. 79 applied (with modifications) (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 3](#)

**80 Interpretation of “functions”.**

For the purposes of the foregoing provisions of this Part of this Act, the functions of a local authority shall be deemed to include the provision of accommodation for any committee, court or other body which the authority are required or authorised to provide, notwithstanding that the committee, court or body may exercise functions not vested in the authority.

**Modifications etc. (not altering text)**

- C88** Ss. 78-81 applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), [Sch. 1 para. 16\(1\)\(c\)](#); S.S.I. 2005/454, [art. 2](#), Sch. 2

**81 Contracts of local authorities.**

- (1) A local authority may make standing orders with respect to the making of contracts by them or on their behalf.
- (2) A local authority shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works.
- (3) Standing orders made by a local authority with respect to contracts for the supply of goods or materials or for the execution of works shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited, but may exempt from any such provision contracts for a price below that specified in standing orders and may authorise the authority to exempt any contract from any such provision when the authority are satisfied that the exemption is justified by special circumstances.
- (4) A person entering into a contract with a local authority shall not be bound to inquire whether the standing orders of the authority which apply to the contract have been complied with, and non-compliance with such orders shall not invalidate any contract entered into by or on behalf of the authority.
- (5) In this section the expression “contracts” includes, in relation to the execution of works, arrangements for the execution of those works by persons employed by the local authority.

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**Modifications etc. (not altering text)**

- C89** Ss. 78-81 applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), [Sch. 1 para. 16\(1\)\(c\)](#); [S.S.I. 2005/454](#), [art. 2](#), [Sch. 2](#)
- C90** S. 81 applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 3](#)

*Private legislation*

**82 Power of local authority to promote or oppose private legislation.**

- (1) Subject to the provisions of this Act, where a local authority are satisfied that it is expedient to promote or oppose any private legislation in Parliament, the local authority may, in accordance with the procedure provided by this section, promote or oppose the same accordingly and may defray the expenses incurred in relation thereto.
- (2) A resolution of a local authority to promote or oppose private legislation under subsection (1) above shall be—
  - (a) passed by a majority of the whole number of the members of the authority at a meeting of the authority held after ten clear days' notice of the meeting and of its purpose has been given by advertisement in one or more newspapers circulating in the area of the authority, such notice being given in addition to the ordinary notice required to be given for the convening of a meeting of the authority; and
  - (b) in the case of the promotion of private legislation, confirmed by a like majority at a further such meeting convened in accordance with paragraph (a) above and held as soon as may be after the expiration of fourteen days after the draft of the provisional order has been submitted to the Secretary of State in accordance with the provisions of the Act of 1936 and, if the resolution is not confirmed, the local authority shall take all necessary steps to withdraw the same.
- (3) Where under section 2 of the Act of 1936, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons are of opinion that provisions contained in a draft provisional order ought to be dealt with by private Bill and not by provisional order, the determination of the Chairmen shall forthwith be reported to the local authority concerned, and unless the authority resolve to proceed with the promotion of a private Bill dealing with the matters to which the said provisions relate or any of them, such a private Bill shall not be promoted, but if such a private Bill is to be promoted, the proceedings of the authority with respect to the promotion of a provisional order under this section shall be deemed to apply to the promotion of such a Bill.
- (4) In ascertaining for the purpose of this section the whole number of members of a local authority, no account shall be taken of any vacancy which may at the time exist in the membership of the authority.
- (5) No payment shall be made by a local authority to a member of the authority for acting as counsel or agent in promoting or opposing private legislation under this section.
- (6) Nothing in this section shall affect the right of any local authority connected with the locality to which any draft provisional order referred to Commissioners under the Act

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of 1936 relates to make a report to the Commissioners respecting the provisions of the draft order.

(7) In this section—

“Act of 1936” means the <sup>M27</sup>Private Legislation Procedure (Scotland) Act 1936;

“provisional order” means a provisional order under the Act of 1936;

“private legislation in Parliament” and “private legislation” include a provisional order and the confirmation Bill relating thereto under the Act of 1936, and also any local or personal Bill.

**Marginal Citations**

M27 1936 c. 52.

*Miscellaneous*

**83 Power of local authorities to incur expenditure for certain purposes not otherwise authorised.**

(1) A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of [<sup>F117</sup>and will bring direct benefit to] their area or any part of it or all or some of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any expenditure.

[<sup>F118</sup>(a)] for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment [<sup>F119</sup>nor].

[<sup>F119</sup>(b)] unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.]

(2) It is hereby declared that <sup>F120</sup>. . . the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority’s functions.

<sup>F121</sup>(2A) . . . . .

<sup>F121</sup>(2B) . . . . .

[<sup>F122</sup>(2C)] A local authority may incur expenditure under subsection (1) above on publicity only by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given; but the following provisions of this section apply to expenditure incurred by a local authority under section 88 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.

(2D) In subsection (2C) above—

“publicity” means any communication, in whatever form, addressed to the public at large or to a section of the public; and

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“voluntary organisation” means a body which is not a public body but whose activities are carried on otherwise than for profit.]

- (3) A local authority may, subject as aforesaid, incur expenditure on contributions to any of the following funds, that is to say—
- (a) the funds of any charitable body in furtherance of its work in the United Kingdom; or
  - (b) the funds of any body which provides any public service in the United Kingdom otherwise than for the purposes of gain; or
  - (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by a [<sup>F123</sup>convener of a local authority, a convener] of a community council, a lord-lieutenant or by a body of which any of these persons is a member [<sup>F124</sup>or by such a person or body as is referred to in section 137(3)(c) of the Local Government Act 1972].

<sup>F125</sup>(3A) . . . . .

[<sup>F126</sup>(4) The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—

- (a) £3.80, or such other sum as may from time to time be specified in an order made by the Secretary of State; by
- (b) the relevant population of the authority’s area.

(4AA) For the purposes of subsection (4)(b) above the relevant population of a local authority’s area shall be determined in accordance with regulations made by the Secretary of State.]

[<sup>F127</sup>(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

- (a) any grant paid to the local authority for that year under the <sup>M28</sup>Local Government Grants (Social Need) Act 1969, in so far as the grant is in respect of an activity in relation to which the authority have incurred expenditure in that year under this section;
- (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;
- (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by their section to incur expenditure;
- (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the European <sup>F128</sup>. . . Community, in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;
- (e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and
- (f) the amount of any expenditure—
  - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or

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- (ii) which is incurred by the authority in that year and is of a description so specified; or
- (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.]

[<sup>F129</sup>(5) A statutory instrument containing an order or regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

[<sup>F130</sup>(7) The accounts kept under section 96 of this Act by a local authority shall include a separate account of any expenditure incurred by the authority under this section.]

#### Textual Amendments

- F117** Words in s. 83(1) inserted (1.4.1995) by 1994 c. 39, s. 164(2)(a); S.I. 1995/702, art. 3
- F118** S. 83(1)(a) re numbered (1.4.1995) by 1994 c. 39, s. 164(2)(b); S.I. 1995/702, art. 3
- F119** S. 83(1)(b) and the word “nor” immediately preceding it inserted (1.4.1995) by 1994 c. 39, s. 164(2)(c); S.I. 1995/702, art. 3
- F120** Words in s. 83(2) repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2
- F121** S. 83(2A)(2B) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(19)(a), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F122** S. 83(2C)(2D) inserted by Local Government Act 1986 (c. 10, SIF 81:1), ss. 3(3), 6
- F123** Words in s. 83(3)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(19)(b); S.I. 1996/323, art. 4(1)(c)
- F124** Words added by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 36(9)
- F125** S. 83(3A) repealed (1.4.1996) by 1994 c. 39, s. 164(3), 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(a)(d), Schs. 1, 2
- F126** S. 83(4)(4AA) substituted (1.4.1996) for s. 83(4) by 1994 c. 39, s. 164(4); S.I. 1996/323, art. 4(1)(a), Sch. 1
- F127** S. 83(4A), (4B) inserted by Local Government and Planning (Scotland) Act 1982 (c. 43), s. 50(b)
- F128** Word in s. 83(4B)(d) repealed (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1995/702, art. 3(e), Sch. 1
- F129** S. 83(5) substituted (1.4.1996) for s. 83(5)(6) by 1994 c. 39, s. 164(5); S.I. 1996/323, art. 4(1)(a), Sch. 1
- F130** S. 83(7) inserted by Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31, SIF 103:2), s. 9

#### Modifications etc. (not altering text)

- C91** S. 83 amended by Local Authorities (Expenditure Powers) Act 1983 (c. 52), s. 1(1)(b)
- C92** S. 83 amended by Local Authorities (Expenditure Powers) Act 1983 (c. 52, SIF 81:2), s. 1(1)(b)

#### Marginal Citations

- M28** 1969 c. 2.

## 84 Powers of local authorities with respect to emergencies or disasters.

- (1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a local authority are of opinion that it is likely to affect the whole or part of their area or all or some of its inhabitants, the authority may—
  - (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their

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area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; and

- (b) make grants or loans to other persons or bodies on conditions determined by the authority in respect of any such action taken by those persons or bodies.

<sup>F131</sup>(2) . . . . .

- (3) The power conferred by subsection (1)

above shall be in addition to, and not in derogation of, any power conferred on a local authority by or under any other enactment, including any enactment contained in this Act.

<sup>F132</sup>(4) . . . . .

**Textual Amendments**

**F131** S. 84(2) repealed (4.1.1995) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(20), **Sch. 14**; S.I. 1994/2850, art. 3(c)(vii)(d), **Sch. 3**

**F132** S. 84(4) repealed (4.1.1995) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1994/2850, art. 3(d), **Sch. 3**

**85 Acceptance of gifts of property.**

A local authority may accept, hold and administer—

- (a) for the purpose of discharging any of their functions, gifts of property, whether heritable or moveable, made for that purpose; or  
 (b) for the benefit of the inhabitants of their area or of some part of it, gifts made for that purpose;

and may execute any work (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

**Modifications etc. (not altering text)**

**C93** S. 85 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**86 Insurance by local authorities against accidents to members.**

- (1) A local authority may enter into a contract with any person whereby, in consideration of payments by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority.
- (2) Any sum received by the authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the member concerned.
- (3) The provisions of the <sup>M29</sup>Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of [<sup>F133</sup>the <sup>M30</sup>Insurance Companies Act 1982] to be a policy of insurance upon the happening of personal accidents.

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- (4) In this section, the expression “member of the authority” includes a member of a committee or sub-committee of the authority who is not a member of that authority.

#### Textual Amendments

**F133** Words substituted by virtue [Insurance Companies Act 1982 \(c. 50\)](#), [Sch. 4 para. 22](#)

#### Modifications etc. (not altering text)

**C94** [S. 86](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 3](#)

[S. 86](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), [arts. 1\(2\)](#), 14

#### Marginal Citations

**M29** 1774 c. 48.

**M30** 1982 c. 50.

### 87 Research and the collection of information.

- (1) A [<sup>F134</sup>local authority] may conduct, or assist in the conducting of, investigations into, and the collection of information relating to, any matters concerning their area or any part thereof and may make, or assist in the making of arrangements whereby any such information and the results of any such investigation are made available to <sup>F135</sup> . . . any government department or the public.

- (2) The appropriate Minister with respect to any matter may require [<sup>F136</sup>a local authority] to provide him with any information with respect to that matter which is in the possession of, or available to, that [<sup>F137</sup>local authority] in consequence of the exercise of any power conferred by or under any enactment; <sup>F138</sup> . . .

<sup>F139</sup>(3) . . . . .

#### Textual Amendments

**F134** Words in [s. 87\(1\)](#) substituted (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), [Sch. 13 para. 92\(21\)\(a\)\(i\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#)

**F135** Words in [s. 87\(1\)](#) repealed (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)\(2\)](#), [Sch. 13 para. 92\(21\)\(a\)\(ii\)](#), [Sch. 14](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

**F136** Words in [s. 87\(2\)](#) substituted (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), [Sch. 13 para. 92\(21\)\(b\)\(i\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#)

**F137** Words in [s. 87\(2\)](#) substituted (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), [Sch. 13 para. 92\(21\)\(b\)\(ii\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#)

**F138** Words in [s. 87\(2\)](#) repealed (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)\(2\)](#), [Sch. 13 para. 92\(21\)\(b\)\(iii\)](#), [Sch. 14](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

**F139** [S. 87\(3\)](#) repealed (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)\(2\)](#), [Sch. 13 para. 92\(21\)\(c\)](#), [Sch. 14](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)

### 88 Provision of information, etc., relating to matters affecting local government.

- (1) A local authority may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the authority provided either by the authority or by other authorities [<sup>F140</sup>mentioned

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in subsection (1B) below] or by government departments, or by charities and other voluntary organisations, and other information [<sup>F141</sup>relating to the functions of the authority].

[<sup>F142</sup>(1A) A local authority may arrange for the publication within their area of information as to the services available in the area provided by them or by other authorities mentioned in subsection (1B) below.]

[<sup>F143</sup>(1B) The other authorities referred to above are any other local authority and any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more local authorities.]

(2) A local authority may—

- (a) arrange for the publication within their area of information [<sup>F144</sup>relating to the functions of the authority]; and
- (b) arrange for the delivery of lectures and addresses and the holding of discussions on such matters; and
- (c) arrange for the display of pictures, cinematograph films or models or the holding of exhibitions relating to such matters; and
- (d) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid.

[<sup>F145</sup>(3) A local authority may assist voluntary organisations to provide for individuals—

- (a) information and advice concerning those individuals' rights and obligations; and
- (b) assistance, either by the making or receiving of communications or by providing representation to or before any person or body, in asserting those rights or fulfilling those obligations.]

#### Textual Amendments

**F140** Words inserted by [Local Government Act 1986 \(c. 10, SIF 81:1\)](#), **ss. 3(1)(a)**, 6

**F141** Words substituted by [Local Government Act 1986 \(c. 10, SIF 81:1, 2\)](#), **Pt. II ss. 3(1)(a)**, 6

**F142** [S. 88\(1A\)](#) inserted by [Local Government Act 1986 \(c. 10, SIF 81:1, 2\)](#), **ss. 3(1)(b)**, 6

**F143** [S. 88\(1B\)](#) inserted by [Local Government Act 1986 \(c. 10, SIF 81:1, 2\)](#), **ss. 3(2)**, 6

**F144** Words substituted by [Local Government Act 1986 \(c. 10, SIF 81:1, 2\)](#), **ss. 3(1)(c)**, 6

**F145** [S. 88\(3\)](#) inserted (1.4.1996) by [1994 c. 39, s. 140](#); [S.I. 1996/323, art. 4\(1\)\(a\)](#), **Sch. 1**

## 89 Subscriptions to local government associations.

A local authority may pay reasonable subscriptions, whether annually or otherwise, to the funds—

- (a) of any association of local authorities formed (whether inside or outside the United Kingdom) for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government, or
- (b) of any association of officers or members of local authorities which was so formed.

#### Modifications etc. (not altering text)

**C95** [S. 89](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789, art. 2](#), **Sch. para. 3**



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## **[<sup>F146</sup>90 Powers of local authority to carry on tourism-related activities.**

- (1) A local authority may—
  - (a) provide, or encourage any other person to provide, facilities for leisure, conferences, trade fairs and exhibitions or improve, or encourage any other person to improve, any existing facilities for those purposes;
  - (b) promote, by advertisement or otherwise, facilities provided by that local authority (whether such facilities are owned by the authority or otherwise);
  - (c) organise, or assist others in the organisation of, and promote, by advertisement or otherwise, conferences, trade fairs and exhibitions;
  - (d) participate in the area tourist board whose area includes the area of that authority.
- (2) Subject to subsection (3) below, a local authority shall not have power to—
  - (a) encourage persons, by advertisement or otherwise (and whether inside or outside the United Kingdom)—
    - (i) to visit their area for purposes relating to leisure; or
    - (ii) to hold conferences, trade fairs or exhibitions within their area;
  - (b) provide information about accommodation and facilities and services relating to leisure in their area or provide a booking service for such accommodation, to persons visiting their area;
  - (c) carry on such other activities relating to those mentioned in paragraphs (a) and (b) above as the Secretary of State may by regulations specify.
- (3) A local authority shall have power to do any of the things mentioned in paragraphs (a) to (c) of subsection (2) above—
  - (a) in so far as it is necessary to do any of those things for the purposes of carrying on the activities mentioned in paragraphs (a) and (b) of subsection (1) above; or
  - (b) where the Secretary of State has given his prior consent (subject to such conditions as he considers necessary or expedient) in writing.
- (4) A local authority shall not, for the purposes of carrying on activities relating to tourism other than—
  - (a) those such as are mentioned in paragraphs (a) to (d) of subsection (1) above; or
  - (b) by virtue of subsection (3) above, those such as are mentioned in subsection (2) above,form, acquire or join with any person or body corporate.
- (5) Without prejudice to subsection (1) above, a local authority may contribute towards expenses incurred by any person—
  - (a) doing anything mentioned in paragraph (a) of that subsection; or
  - (b) organising and holding a conference, trade fair or exhibition.
- (6) A local authority may appoint officers for the purposes of enabling the authority to carry out any of their powers under this section; and section 65 of this Act shall apply in relation to any officers appointed under this subsection subject to the following modifications—
  - (a) references to “another local authority” shall be construed as if they were references to an area tourist board; and
  - (b) in subsection (2), the words from “but” to the end shall be omitted.

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- (7) A statutory instrument containing regulations under subsection (2)(c) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
  - (a) “area tourist board” means a board established by virtue of an order made or, as the case may be, approved under section 172, 173 or 174 of the Local Government etc. (Scotland) Act 1994;
  - (b) “participate” means participation in any one or more of the following ways—
    - (i) a local authority or any person representative of a local authority being a member of the area tourist board whose area includes the area of that authority;
    - (ii) provision by a local authority to such a board of financial assistance for the purposes of the board’s carrying out activities relating to tourism;
    - (iii) provision by a local authority to such a board of staff; and
  - (c) section 171A(3) of this Act shall apply to this section with the substitution for any references to a person of references to an area tourist board.]

**Textual Amendments**  
**F146** S. 90 substituted (1.4.1996) by 1994 c. 39, s. 176; S.I. 1995/2866, art. 3(b)

<sup>F147</sup>90A .....

**Textual Amendments**  
**F147** S. 90A repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

91 ..... <sup>F148</sup>

**Textual Amendments**  
**F148** S. 91 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), Sch. 4 Pt. I

**92 Transfer of securities on alteration of area, etc.**

- (1) Where any securities are standing in the books of a company in the name of a local authority the following provisions shall have effect—
  - (a) if the name of the authority is changed, then at the request of the authority and on production of a statutory declaration by the proper officer of the authority specifying the securities and verifying the change of name and identity of the authority, the company shall enter the securities in the new name of the local authority in like manner as if the securities had been transferred to the authority under that name;
  - (b) if by virtue of anything done under any provision of this Act or any enactment similar to any such provision (whenever passed), any other local authority

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have become entitled to the securities or any dividends or interest thereon, as the case may be, a certificate of the proper officer of the council of that other authority or the scheme, order or award under which that other authority have become so entitled, shall be a sufficient authority to the company to transfer the securities into the name of the local authority specified in that behalf in the certificate, or in the scheme, order or award, as the case may be, and to pay the dividends or interest to that authority;

- (c) if in any other case any other local authority have become entitled to the securities or any dividends or interest thereon, as the case may be, the Court of Session may on the petition of that other authority make an order vesting in that other authority the right to transfer the securities or to receive the dividends or interest, as the case may be.

(2) In this section, the expression—

“company” includes the Bank of England and any company or person keeping books in which any securities are registered or inscribed;

“securities” [<sup>F149</sup>means—]

- [<sup>F149</sup>(a) investments falling within any of paragraphs 1 to 6 of Schedule 1 to the <sup>M31</sup>Financial Services Act 1986 or, so far as relevant to any of those paragraphs, paragraph 11 of that Schedule; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any society registered under the <sup>M32</sup>Industrial and Provident Societies Act 1965 or any building society within the meaning of the <sup>M33</sup>Building Societies Act 1986.]

#### Textual Amendments

**F149** S. 92(2)(a)(b) and the word “means” immediately preceding in the definition of “securities” substituted (4.1.1995) for words by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(22)**; S.I. 1994/2850, **art. 3(c)(vii)**

#### Marginal Citations

**M31** 1986 c. 60.

**M32** 1965 c. 12.

**M33** 1986 c. 53.

## PART VII

### FINANCE

#### Modifications etc. (not altering text)

**C96** Pt. VII (ss. 93-122) modified by S.I. 1975/930, **regs. 2, 3** and Water (Scotland) Act 1980 (c. 45), **s. 48(1)**

Pt. VII (ss. 93-122) extended by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25(2), **Sch. 5 Pt. II para. 22(b)**

Pt. VII (ss. 93-122) applied and power to modify conferred (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11 Pt. II para. 23(b)**.

Pt. VII (ss. 93-122) extended (6.3.1992) by Local Government Act 1992 (c. 19), **s. 29(1)**.

Pt. VII (ss. 93-122) applied (27.5.1997) by 1997 c. 8, **ss. 261(3)(4), 278(2)**

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### Funds, revenue and expenses

#### 93 General fund.

- (1) Every local authority shall have a general fund and, subject to subsection (2) below—
- (a) all sums received by or on behalf of the authority shall be paid into that fund;
  - (b) all fees, commissions, discounts allowed on payment of accounts and expenses payable to or recovered by any officer of a local authority in respect of any business relating to the authority whether by reason of his office or otherwise shall be accounted for and paid into that fund;
- and all sums payable by the authority shall be paid out of that fund.

(2) Subsection (1)

above shall not apply to sums received or payable—

- (a) which relate to funds or property held by a local authority as trustees for any purpose under any deed of trust or other instrument;
- [<sup>F150</sup>(b) which relate to the common good of the council;]
- (c) with respect to which it is otherwise provided in any other provision of this Act or in any other enactment.

#### Textual Amendments

**F150** S. 93(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(23)**; S.I. 1996/323, **art. 4(1)(c)**

#### 94 Capital expenses.

- (1) It shall not be lawful for a local authority to incur any liability to meet capital expenses except with the consent of the Secretary of State, and the Secretary of State may, if he thinks fit, give his consent for the purposes of this section—
- (a) subject to such conditions as may be specified in the consent;
  - (b) in relation to such project, or to such programme of works, or to such class of works, or to such amount, as may be so specified;
  - (c) in relation to expenses to be met by the authority within such financial year as may be so specified.

[<sup>F151</sup>(1A) The provisions of this section shall apply to the Strathclyde Passenger Transport Authority as they apply to a local authority; and the giving of approval by the Strathclyde Passenger Transport Authority to any proposal for expenditure referred to in section 15(1)(c) of the <sup>M34</sup>Transport Act 1968 shall be deemed for the purposes of this section to be an incurring of liability by the Authority to meet capital expenses.]

[<sup>F152</sup>(1B) The Secretary of State may—

- (a) withdraw, or vary the terms of, a consent which he has, under subsection (1) above, given; or
- (b) withdraw or vary any condition to which the giving of such consent was subject,

[<sup>F153</sup>: Provided that, where the local authority have, by binding contract, incurred any liability to which the consent relates, a withdrawal or variation which would, but for

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this proviso, have the effect of rendering performance of an obligation under such contract impossible shall apply only to the extent (if any) that it does not have that effect.]]

(2) In this section [<sup>F154</sup>“capital expenses” means any expenses which are to be charged to a capital account or which are otherwise of a capital nature irrespective of how they are financed.]

[<sup>F155</sup>(3) The Secretary of State may by order (either or both)—

(a) amend the definition of “capital expenses” in subsection (2) above;

[<sup>F156</sup>(b) provide that subsection (1) above shall, in the same manner as it applies to liabilities incurred in relation to capital expenses, apply to such other liabilities incurred in relation to a lease (or other contract, or arrangement, of a like nature) as may be specified in the order and, for the purposes of such application, prescribe a method for assigning a capital value to those other liabilities and prescribe circumstances in which such other liabilities shall be taken to arise.]

(4) An order made under subsection (3) above shall have no effect until approved by resolution of each House of Parliament.]

#### Textual Amendments

**F151** S. 94(1A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(24)**; S.I. 1996/323, **art. 4(1)(c)**

**F152** S. 94(1B) inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23), **s. 26(a)**

**F153** S. 94(1B) proviso substituted for words by Local Government and Planning (Scotland) Act 1982 (c.43), **Sch. 3 para. 17(a)**

**F154** Definition substituted by S.I. 1987/943, **reg. 2**

**F155** S. 94(3)(4) added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), **s. 26(b)**

**F156** S. 94(3)(b) substituted by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 3 para. 17(b)**

#### Modifications etc. (not altering text)

**C97** S. 94 modified by Transport Act 1985 (c. 67, SIF 126), **ss. 77(1)**, 140

**C98** S. 94 modified by Airports Act 1986 (c. 31, SIF 9), **ss. 23(1)**, 85(4)

#### Marginal Citations

**M34** 1968 c. 73.

## 95 Financial administration.

Without prejudice to section 69 of this Act, every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.

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#### Modifications etc. (not altering text)

**C99** S. 95 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

### Accounts and audit

#### 96 Accounts and audit.

- (1) Every local authority shall keep accounts of all transactions relating to all funds of the authority and, subject to any provision contained in regulations made under section 105 of this Act, the accounts of the general fund of a local authority shall comprise such current, capital and borrowing accounts as may be necessary for the purpose of distinguishing transactions for different purposes.
- (2) All accounts of a local authority shall be made up in respect of each financial year.
- (3) Every local authority shall, in addition to preparing accounts in respect of any financial year, prepare in duplicate an abstract of the accounts for that year.
- (4) The accounts of every local authority in respect of any financial year shall be audited by a professional accountant, who is either an officer of the [<sup>F157</sup>Accounts Commission for Scotland] or is an approved auditor appointed by the Commission in accordance with the provisions of this Part of this Act.
- [<sup>F158</sup>(5) The financial year of a local authority shall be the period of twelve months ending with 31st March <sup>F159</sup>. . . ; and references in this Act and in any other enactment (whether passed or made before or after the passing of this Act) to the financial year of a local authority shall be construed in accordance with the provisions of this subsection.
- (6) The Secretary of State may by order make provision amending, repealing or revoking, with or without savings, any enactment which is inconsistent with or superseded by subsection (5) above; but no order under this subsection shall have effect unless it is approved by a resolution of each House of Parliament.]

#### Textual Amendments

**F157** Words “Accounts Commission for Scotland” substituted (1.12.1994) for words “Commission for Local Authority Accounts” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 2**; S.I. 1994/2658, **art. 3(c)**

**F158** S. 96(5)(6) substituted for s. 96(5) by Local Government (Scotland) Act 1975 (c. 30), **s. 18**

**F159** Words in s. 96(5) repealed (1.4.1995) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1995/702, art. 3(e), **Sch. 1**

#### Modifications etc. (not altering text)

**C100** S. 96 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**C101** S. 96(1)(2)-(4) applied (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 107, **Sch. 11 Pt. III para. 25**.

**C102** S. 96(2)-(4) extended by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 25(2), **Sch. 5 Pt. III para. 24**

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## 97 Establishment of Commission for Local Authority Accounts in Scotland.

- (1) There shall be established a body, to be known as the [<sup>F160</sup>Accounts Commission for Scotland] (hereafter in this Part of this Act referred to as “the Commission”), which shall consist of such number of members, not being more than [<sup>F161</sup>fifteen] or less than [<sup>F162</sup>eleven], as the Secretary of State may determine, and the members shall be appointed by the Secretary of State after consultation with such associations of local authorities [<sup>F163</sup>and such organisations connected with the health service] as appear to him to be concerned and with such other organisations or persons as he may think appropriate.
- (2) The Commission shall have the following functions, that is to say—
- (a) securing the audit of all accounts of
    - [<sup>F164</sup>(i)] local authorities
    - [<sup>F165</sup>(ii)] the bodies mentioned in section 86(1)(a) to (c) of the National Health Service (Scotland) Act 1978;
    - (iii) the members of every recognised fund-holding practice;
    - (iv) the Mental Welfare Commission for Scotland; and
    - (v) any State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984,
 in accordance with the provisions of this Part of this Act;
  - (b) considering all reports made in accordance with the said provisions and investigating all matters raised by any such report;
  - (c) making recommendations to the Secretary of State and to local authorities [<sup>F166</sup>or, as the case may be, health service bodies] in accordance with the said provisions; . . . [<sup>F167</sup>
  - (d) advising the Secretary of State on any matter relating to the accounting of local authorities [<sup>F168</sup>or health service bodies] which he may refer to them for advice [<sup>F169</sup>and
  - (e) functions conferred by sections 97A and 97B of this Act.]
- [<sup>F170</sup>(2A) Subject to section 100(1A) of this Act, in relation to the members of a recognised fund-holding practice, any reference in this Part of this Act to their accounts is a reference only to the accounts relating to allotted sums paid to them.
- (2B) In this Part of this Act—
- “health service body” means a body referred to in subsection (2)(a)(ii) to (v) above; and
- “recognised fund-holding practice” and “allotted sum” have the same meanings as in section 87B of the National Health Service (Scotland) Act 1978.]
- (3) The Secretary of State may, after consultation with the Commission, with such associations of local authorities [<sup>F171</sup>and such organisations connected with the health service] as appear to him to be concerned and with such other organisations or persons as he may think appropriate, give to the Commission directions of a general character as to the discharge of their functions, and the Commission shall give effect to any direction so given.
- (4) There shall be a Controller of Audit who shall be appointed by the Commission after consultation with, and subject to the approval of, the Secretary of State, and the Commission may appoint such other officers, and may appoint such agents, as they may determine.

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- [<sup>F172</sup>(4A) It shall be the duty of the Commission to make, by such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State in connection with the audit of the accounts of any health service body whose name is notified to the Commission by the Secretary of State for the purposes of this subsection; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (4B) An offer made in pursuance of subsection (4A) above shall not be revocable during the period of three months beginning with the date on which it is made.
- (4C) Where a person becomes an officer of the Commission in consequence of subsection (4A) above, then, for the purposes of the Employment Protection (Consolidation) Act 1978, his period of employment in the civil service of the State shall count as a period of employment by the Commission and the change of employment shall not break the continuity of the period of employment.
- (4D) Where a person ceases to be employed as mentioned in subsection (4A) above—
- (a) on becoming an officer of the Commission in consequence of an offer made in pursuance of that subsection; or
  - (b) having unreasonably refused such an offer,
- he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under section 1 of the Superannuation Act 1972 as having been retired on redundancy.]
- [<sup>F173</sup>(4E) The Secretary of State may supply to the Commission any information held by him which relates to housing benefit or council tax benefit and which appears to him to be relevant to the exercise of any of the functions of the Commission.]
- (5) The provisions of Schedule 8 to this Act shall have effect in relation to the Commission.
- (6) In this Part of this Act “auditor” includes [<sup>F174</sup>(a)] the Controller of Audit, [<sup>F174</sup>(b)] officers of the Commission, being professional accountants, and [<sup>F174</sup>(c)] . . . auditors appointed by the Commission for the purpose of conducting audits or, as the case may be, a particular audit, under this Part of this Act, <sup>F175</sup> . . . [<sup>F176</sup> or a person who is, within the period of five years beginning with the relevant date, approved by the Secretary of State, acting on the recommendation of the Commission and whose approval is not (whether during that period or after its expiry) withdrawn by the Secretary of State acting on such recommendation.
- (6A) In subsection (6) above, “the relevant date” means the date appointed for the coming into force of paragraph 3(3) of Schedule 7 to the National Health Service and Community Care Act 1990.]
- [<sup>F177</sup>(7) A person shall not be appointed as auditor by the Commission under subsection (6) above unless—
- (a) he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989; or
  - (b) he is a member of the Chartered Institute of Public Finance and Accountancy or of any other body of accounts established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this subsection.]



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### Textual Amendments

- F160** Words in s. 97(1) substituted (1.12.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(2)(a)**; S.I. 1994/2658, **art. 3(d)**
- F161** Word in s. 97(1) substituted (1.12.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(2)(b)**; S.I. 1994/2658, **art. 3(d)**
- F162** Word in s. 97(1) substituted (1.12.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(2)(c)**; S.I. 1994/2658, **art. 3(d)**
- F163** Words in s. 97(1) inserted (24.10.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(2)(d)**; S.I. 1994/2658, **art. 2(c)**
- F164** “ S. 97(2)(a)(i)” inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(3)(a)(i)**; S.I. 1994/2658, **art. 4(a)**
- F165** S. 97(2)(a)(ii)–(v) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(3)(a)(ii)**; S.I. 1994/2658, **art. 4(a)**
- F166** Words in s. 97(2)(c) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(3)(b)**; S.I. 1994/2658, **art. 4(a)**
- F167** Word repealed by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(2)**
- F168** Words in s. 97(2)(d) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(3)(c)**; S.I. 1994/2658, **art. 4(a)**
- F169** Word “and” and s. 97(2)(e) added by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(2)**
- F170** S. 97(2A)(2B) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(4)**; S.I. 1994/2658, **art. 4(a)**
- F171** Words in s. 97(3) inserted (1.12.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(5)**; S.I. 1994/2658, **art. 3(d)**
- F172** S. 97(4A)–(4D) inserted (24.10.1994) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(6)**; S.I. 1994/2658, **art. 2(c)**
- F173** S. 97(4E) inserted (1.7.1997) by 1997 c. 47, **s. 7(2)**; S.I. 1997/1577, **art. 2, Sch.**
- F174** Word inserted by Local Government (Scotland) Act 1975 (c. 30), **Sch. 6 Pt. II para. 48**
- F175** Words in s. 97(6) omitted (1.10.1991) by virtue of S.I. 1991/1997, **reg. 2, Sch. para. 23(a)** (with **reg. 4**).
- F176** Words in s. 97(6) and (6A) added (1.4.1995) at the end of subsection (6) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 3(7)**; S.I. 1994/2658, **art. 4(a)**
- F177** S. 97(7) substituted (1.10.1991) by S.I. 1991/1997, **reg. 2, Sch. para. 23(b)** (with **reg. 4**).

### Modifications etc. (not altering text)

- C103** S. 97 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2, Sch. para. 3**
- C104** S. 97(3) applied by Self-Governing Schools etc. (Scotland) Act 1989 (c. 39, SIF 41:2), **s. 77(4)**

### [<sup>F178</sup>97A Studies for improving economy etc. in services.

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local authorities or by other bodies whose accounts are required to be audited in accordance with this Part of this Act, and for improving the financial or other management of such authorities or other bodies.
- (2) The Commission shall publish or otherwise make available its recommendations and the results of any studies undertaken or promoted under this section [<sup>F179</sup>and, in the case of studies relating to a health service body, shall, on request, furnish to the Comptroller and Auditor General all material relevant to the studies.]

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- (3) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate <sup>F180</sup>and, in the case of a health service body, the Commission shall also consult the Secretary of State and the Comptroller and Auditor General.]]

#### Textual Amendments

**F178** Ss. 97A, 97B inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 35(3)

**F179** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), Sch. 7 para. 4(2); S.I. 1994/2658, art. 4(a)

**F180** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), Sch. 7 para. 4(3); S.I. 1994/2658, art. 4(a)

#### Modifications etc. (not altering text)

**C105** S. 97A applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**C106** S. 97A(1) extended (6.5.1992) by Local Government Act 1992 (c. 19), ss. 3(3), 30(2).

**C107** S. 97A(3) excluded (6.5.1992) by Local Government Act 1992 (c. 19), ss. 3(3), 30(2).

### 97B Furnishing of information and documents to Commission.

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body, to furnish the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 97A of this Act.
- (2) Any person who without reasonable excuse fails to comply with a requirement imposed by subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Modifications etc. (not altering text)

**C108** S. 97B applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 98 Expenses and accounts of Commission.

- (1) The Commission shall have power to incur such expenses as appear to them to be necessary or expedient for the proper discharge of their functions, and—
- (a) the Secretary of State may, with the consent of the Treasury, pay to the Commission grants of such amounts, at such times and subject to such conditions as he may determine in respect of expenses incurred by the Commission as aforesaid;
  - (b) such part of the expenses of the Commission <sup>F181</sup>relating to their functions with respect to local authorities] as is not met by grants under paragraph (a) above shall be met by local authorities in accordance with regulations made

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- by the Secretary of State after consultation with such associations of local authorities as appear to him to be concerned.
- [<sup>F182</sup>(c) such part of the expenses of the Commission relating to their functions with respect to health service bodies as is not met by grants under paragraph (a) above shall be met by health service bodies in accordance with regulations made by the Secretary of State after consultation with such organisations connected with the health service as appear to him to be concerned.]
- (2) A statutory instrument containing regulations made by the Secretary of State under paragraph (b) [<sup>F183</sup>or (c)] of subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The Commission shall keep proper accounts and other records in relation to their accounts and shall prepare in respect of each financial year a statement of account in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (4) The statement of account prepared by the Commission in respect of each financial year shall be submitted to the Secretary of State before such date as he may, with the approval of the Treasury, direct.
- (5) The Secretary of State shall, on or before [<sup>F184</sup>31st March] in each year, transmit to the Comptroller and Auditor General the statement of account prepared by the Commission for the financial year last ended.
- (6) The Comptroller and Auditor General shall examine and certify the statement of account transmitted to him under subsection (5) above and shall lay before Parliament copies of that statement together with his report thereon.
- [<sup>F185</sup>(7) In this section, “financial year” means the period of twelve months ending with 31st October in any year.]

#### Textual Amendments

- F181** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 5(2)(a)**; S.I. 1994/2658, **art. 4(a)**
- F182** S. 98(1)(c) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 5(2)(b)**; S.I. 1994/2658, **art. 4(a)**
- F183** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 5(3)**; S.I. 1994/2658, **art. 4(a)**
- F184** Words in s. 98(5) substituted (29.4.1996 with first effect in relation to the period from 1.4.1997 to 31.10.1997) by 1996 c. 10, s. 4(1)(a)(3); S.I. 1997/1979, **art. 2**
- F185** S. 98(7) inserted (29.4.1996 with first effect in relation to the period from 1.4.1997 to 31.10.1997) by 1996 c. 10, s. 4(1)(b)(3); S.I. 1997/1979, **art. 2**

## 99 General duties of auditors.

In auditing the accounts of any local authority [<sup>F186</sup>or health service body] under this Part of this Act, an auditor shall, by examination of the accounts and otherwise, satisfy himself that—

- (a) the accounts have been prepared in accordance with regulations made under section 105 of this Act [<sup>F187</sup>or, in the case of a health service body, directions under section 86(3) of the National Health Service (Scotland) Act 1978] and comply with the requirements of all other enactments and instruments

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- applicable to the accounts; and comply with the requirements of all other enactments and instruments applicable to the accounts;
- (b) proper accounting practices have been observed in the preparation of the accounts.
- [<sup>F188</sup>(c) that the local authority [<sup>F186</sup>or health service body] has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources][<sup>F189</sup>and
- <sup>F189</sup>(d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.]

#### Textual Amendments

**F186** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 6(a)**; S.I. 1994/2658, **art. 4(a)**

**F187** Words inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 6(b)**; S.I. 1994/2658, **art. 4(a)**

**F188** S. 99(c) added by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 35(4)**

**F189** S. 99(d) and word 'and' preceding it inserted (6.5.1992) by Local Government Act 1992 (c. 19), **ss. 3(2), 30(2)**.

#### Modifications etc. (not altering text)

**C109** S. 99 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2, Sch. para. 3**

### 100 Auditor's right of access to documents.

- (1) An auditor shall have a right of access at all reasonable times to all such documents relating to the accounts of a local authority [<sup>F190</sup>or health service body] it appears to him to be necessary to examine for the purpose of auditing those accounts under this Part of this Act and shall be entitled to require from any officer of that authority [<sup>F190</sup>or body] or any other person holding or accountable for any such document such information and explanation as he thinks necessary for the said purpose and, if he thinks it necessary for providing any such information or explanation, to require any such officer or other person to attend before him in person and produce any such documents.
- [<sup>F191</sup>(1A) In the case of a recognised fund-holding practice, the reference in subsection (1) above to documents includes a reference to documents relating to all the accounts and records of the members of the practice, whether or not relating to an allotted sum.]
- [<sup>F192</sup>(1B) Without prejudice to subsection (1) above, the auditor shall be entitled to require any officer, former officer, member or former member of an authority or body whose accounts are required to be audited in accordance with this Part of this Act to give him such information or explanation as he thinks necessary for the purposes of the audit and, if he thinks it necessary, to require any of the persons mentioned above to attend before him in person to give the information or explanation.]
- (2) Without prejudice to [<sup>F193</sup>subsections (1) and (1B)] above, every local authority [<sup>F194</sup>and health service body] shall provide an auditor with every facility and all information which he may reasonably require for the purpose of auditing their accounts.

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- (3) If any person wilfully or negligently fails to comply with any requirement of an auditor under subsection (1) [<sup>F195</sup>or (1B)] above, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F196</sup>level 3 on the standard scale]. . .

#### Textual Amendments

- F190** Words in s. 100(1) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 7(2)**; S.I. 1994/2658, **art. 4(a)**
- F191** S. 100(1A) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 7(3)**; S.I. 1994/2658, **art. 4(a)**
- F192** S. 100(1B) inserted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(a)**; S.I. 1995/702, **art. 3(d)(ii)**
- F193** Words in s. 100(2) substituted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(b)**; S.I. 1995/702, **art. 3(d)(ii)**
- F194** Words in s. 100(2) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 7(4)**; S.I. 1994/2658, **art. 4(a)**
- F195** Words in s. 100(3) inserted (1.4.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(25)(c)(i)**; S.I. 1995/702, **art. 3(d)(ii)**
- F196** Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48), s. 54)

#### Modifications etc. (not altering text)

- C110** S. 100 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, **art. 2, Sch. para. 3**

### 101 Right of interested person to inspect and object to accounts: completion of audit.

[<sup>F197</sup>(1) At each audit under this Part of this Act of a local authority's accounts, any persons interested may inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating thereto and make copies of all or any part of the accounts and those other documents.]

- (2) Any person interested may object to the accounts of a local authority or to any part of those accounts by—
- (a) sending his objection in writing, together with a statement of the grounds thereof, to the auditor, and
  - (b) sending a copy of that objection and statement to the authority and to any officer of the authority who may be concerned.
- (3) Where any person objects under subsection (2)

above to the accounts of a local authority, the auditor shall, if so requested by that person or authority or by any officer of the authority who may be concerned, afford to that person or authority or officer, as the case may be, an opportunity of appearing before and being heard by the auditor with respect to that objection; and any such person or officer may so appear and be heard either personally or by a representative.

- (4) Within fourteen days of the completion of the audit of the accounts of a local authority the auditor shall place on each duplicate abstract of those accounts prepared by the authority under section 96(3) of this Act a certificate, in such form as the Commission may direct, to the effect that he has audited the accounts in accordance with the provisions of this Part of this Act; and the auditor shall, on so certifying, forthwith

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send one duplicate abstract of the accounts to the Commission and the other duplicate abstract to the local authority.

[<sup>F198</sup>(5) Within 14 days of the completion of the audit of the accounts of a health service body the auditor shall place on any abstract of those accounts prepared by the health service body by virtue of section 86 of the National Health Service (Scotland) Act 1978 a certificate, in such form as the Commission may direct, to the effect that he has audited the accounts in accordance with the provisions of this Part of this Act; and the auditor shall, on so certifying, forthwith send copies of the abstract of the accounts to the Commission, the Secretary of State and the health service body.]

#### Textual Amendments

**F197** S. 101(1) substituted by Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31, SIF 103:2), s. 10(1)

**F198** S. 101(5) added (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), Sch. 7 para. 8; S.I. 1994/2658, art. 4(a)

#### Modifications etc. (not altering text)

**C111** S. 101 extended by Airports Act 1986 (c. 31, SIF 9) ss. 24(3)(b), 85(4)

**C112** S. 101 excluded by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 11(1)(4)

**C113** S. 101 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

[<sup>F199</sup>101A Reference of social security matters to Secretary of State.

The Commission or an auditor may refer to the Secretary of State any matter arising from an audit or study under this Part of this Act if it appears that it may be relevant for the purposes of any of the functions of the Secretary of State relating to social security.]

#### Textual Amendments

**F199** S. 101A inserted (1.7.1997) by 1997 c. 47, s. 7(3); S.I. 1997/1577, art. 2, Sch.

## 102 Reports to Commission by Controller of Audit.

- (1) The Controller of Audit shall make to the Commission such reports as they may require with respect to the accounts of local authorities [<sup>F200</sup>and health service bodies] audited under this Part of this Act and shall send a copy of any report so made to any local authority [<sup>F201</sup>or health service body] which is named in that report [<sup>F202</sup>and may send a copy of any report so made to any other person he thinks fit].
  - (2) Without prejudice to subsection (1) above, the Controller of Audit may make a report to the Commission on any matters arising out of or in connection with the accounts of a local authority in order that those matters may be considered by the local authority concerned or brought to the attention of the public, and shall send a copy of any report so made to any local authority which is named in that report [<sup>F202</sup>and may send a copy of any report so made to any other person he thinks fit].
- [<sup>F203</sup>(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection.]

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(3) Without prejudice to subsection (1)

above, if the Controller of Audit, having considered [<sup>F204</sup>any matter arising out of the auditing] under this Part of this Act of the accounts of any local authority and having made such further inquiries (if any) as he may think fit—

- (a) is of the opinion—
  - (i) that any item of account is contrary to law, or
  - (ii) that there has been a failure on the part of any person to bring into account any sum which ought to have been brought into account, or
  - (iii) that any loss has been incurred or deficiency caused by the negligence or misconduct of any person or by the failure of the authority to carry out any duty imposed on them by any enactment; or
- (b) is of the opinion that any sum which ought to have been credited or debited to one account of the authority has been credited or, as the case may be, debited to another account of the authority; and
- (c) is not satisfied that the authority has taken or is taking such steps as may be necessary to remedy the matter;

he shall make to the Commission a special report with respect to the said accounts, setting forth his opinion as aforesaid and the grounds thereof.

(4) The Controller of Audit shall, on making a special report under subsection (3) above with respect to the accounts of any local authority, forthwith send a copy of that special report—

- (a) to that authority;
- (b) to any officer of the authority who may be concerned;
- (c) if the matter raised by the special report has been made the subject of objection under section 101 of this Act, to the person making that objection;
- (d) to any other person who in his opinion may be affected thereby.

[<sup>F205</sup>(5) Without prejudice to subsection (1) above and section 104A(2) of this Act, the Controller of Audit may make a report to the Commission on any matters arising out of or in connection with the accounts of a health service body and shall send a copy of any report so made to any health service body which is named in that report and to the Secretary of State.]

#### Textual Amendments

- F200** Words inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 9\(2\)\(a\)](#); S.I. 1994/2658, [art. 4\(a\)](#)
- F201** Words inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 9\(2\)\(b\)](#); S.I. 1994/2658, [art. 4\(a\)](#)
- F202** Words added by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), [s. 185\(a\)](#)
- F203** [S. 102\(2A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), [s. 185\(b\)](#)
- F204** Words in [s. 102\(3\)](#) substituted (4.1.1995) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 92\(26\)](#); S.I. 1994/2850, [art. 3\(c\)\(Vii\)](#)
- F205** [S. 102\(5\)](#) added (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 9\(3\)](#); S.I. 1994/2658, [art. 4\(a\)](#)

#### Modifications etc. (not altering text)

- C114** [S. 102](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789, art. 2](#), [Sch. para. 3](#)

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### 103 Action by Commission on reports by Controller of Audit.

- (1) Subject to subsection (2) below, the Commission shall consider any report made to them by the Controller of Audit [<sup>F206</sup>with respect to the accounts of any local authority] and may, if they think fit, hold a hearing into any matter raised by that report; and the Commission may thereafter make to the Secretary of State or to any local authority such recommendation as appears to the Commission to be appropriate in the light of the report.
- (2) Where a special report is made to them under section 102(3) of this Act with respect to the accounts of any local authority, the Commission—
  - (a) shall consider that special report and any observations on it made in writing by the authority or by any person to whom a copy of it was sent under section 102(4) of this Act, being observations made within fourteen days of the date on which such copy was sent as aforesaid to the authority or, as the case may be, that person or such longer period as the Commission may in any particular case allow;
  - (b) may if they think fit, and shall if so requested by the authority or by any person to whom a copy of the special report was sent as aforesaid, hold a hearing into any matter raised by the special report; and
  - (c) may if they think fit, and shall if so directed by the Court of Session, state a case on any question of law arising on the special report for the opinion of the Court of Session.
- (3) Subject to subsection (4) below, if after consideration of the matters referred to in subsection (2) above the Commission find that any item of expenditure is contrary to law, or that there has been a failure to bring into account any sum which ought to have been brought into account, or that any loss or deficiency has been incurred or caused as mentioned in section 102(3)(a) of this Act, or that a local authority have not taken steps to remedy such a matter as is referred to in section 102(3)(b) of this Act, the Commission shall send the special report together with their findings to the Secretary of State and may recommend him to make an order—
  - (a) requiring any person whom they find responsible for incurring or authorising that expenditure, or for that failure, or for that loss or deficiency, as the case may be, to pay to the local authority concerned an amount not exceeding the amount of the said expenditure, or of the said sum, or of the said loss or deficiency; or, as the case may be,
  - (b) directing the authority to make such rectification of their accounts as appears to the Commission to be necessary.
- (4) The Commission shall not recommend that any officer or member of a local authority be ordered to pay any amount to the authority by reason only of his having signed a cheque or order in respect of any payment, if he satisfies the Commission—
  - (a) in the case of an officer of the authority, that before signing the cheque or order he advised the authority in writing that in his opinion the payment was contrary to law; or
  - (b) in the case of a member of the authority, that the payment was made in pursuance of an order of the authority or of an authorised committee thereof and that before he signed the cheque or order the authority had not been advised by any officer of the authority that in the opinion of that officer the payment was contrary to law.



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- (5) The Commission shall, on making a recommendation under subsection (3) above in relation to a special report made to them with respect to the accounts of any local authority, forthwith send a copy of that recommendation to the authority and to any person to whom a copy of the special report was sent under section 102(4) of this Act.
- (6) At any hearing held by them under this section the Commission—
- (a) shall afford an opportunity of appearing before and being heard by the Commission to the representative of any local authority which is likely to be affected by any recommendation of the Commission and to, or to the representative of, any other person who is likely to be so affected;
  - <sup>[F207]</sup>(b) may require the attendance of members or officers, or former members or officers, of any local authority to give oral evidence to the Commission; and
  - (c) may pay to any person attending a hearing under this section such expenses as they think fit.]
- (7) If any person wilfully or negligently fails to comply with any requirement of the Commission under paragraph (b) of subsection (6) above, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding <sup>[F208]</sup>level 3 on the standard scale].

#### Textual Amendments

- F206** Words inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 10](#); [S.I. 1994/2658](#), [art. 4\(a\)](#)
- F207** [S. 103\(6\)\(b\)\(c\)](#) substituted (4.1.1995) for s. 103(6)(b) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 92\(27\)](#); [S.I. 1994/2850](#), [art. 3\(c\)\(vii\)](#)
- F208** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F](#), 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))

#### Modifications etc. (not altering text)

- C115** [S. 103](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#) art. 2, Sch. para. 3

VALID FROM 01/01/2002

#### <sup>[F209]</sup>**103A** Publication of special reports

The Commission may publish a special report made to it under section 102(3) of this Act, and may do so in whatever way and send it to whomever it thinks fit.]

#### Textual Amendments

- F209** [Ss. 103\(A\)-\(J\)](#) inserted (1.1.2002) by [2000 asp 7](#), [s. 33\(3\)](#); [S.S.I 2001/474](#) art. 3 (subject to transitional provisions in art. 4)

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VALID FROM 01/01/2002

### **[<sup>F210</sup>103B] Action by Commission on receipt of special reports**

- (1) On receiving a special report under section 102(3) of this Act from the Controller of Audit, the Commission may—
  - (a) direct the Controller to carry out further investigations;
  - (b) hold a hearing;
  - (c) state a case on any question of law arising on the special report for the opinion of the Court of Session;
  - (d) subject to subsections (2) and (3) below, do none of the above.
- (2) The Commission shall hold a hearing if requested to so in writing by—
  - (a) the local authority which was sent a copy of the report under section 102(3A) of this Act;
  - (b) any person, named or referred to in the report—
    - (i) as being to blame in connection with an item of account being contrary to law;
    - (ii) whose failure, negligence or misconduct is a subject of the report; or
    - (iii) who was sent a copy of the report under section 102(3A) of this Act.
- (3) The Commission shall state a case under subsection (1)(c) above if directed to do so by the Court of Session.]

#### **Textual Amendments**

**F210** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I. 2001/474 art. 3 (subject to transitional provisions in art. 4)

VALID FROM 01/01/2002

### **[<sup>F211</sup>103C] Hearings on special reports**

- (1) Subject to subsections (2) to (12) below, the procedure at a hearing held under section 103B(1)(b) of this Act shall be such as the Commission determines.
- (2) The Commission may, at any one hearing, consider—
  - (a) allegations of blame, in connection with an item of account being contrary to law, against; and
  - (b) failures, negligence or misconduct by, more than one officer or member of a local authority.
- (3) A hearing shall be conducted by not fewer than three members of the Commission selected by the chairman of the Commission.
- (4) Notwithstanding paragraph 4(1) of Schedule 8 to this Act, for the purposes of this section, the quorum for a meeting of the Commission shall be three.
- (5) The following—

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- (a) an officer or member—
- (i) as to whom the question of blame in connection with an item of account being contrary to law is; or
  - (ii) whose alleged failure, negligence or misconduct is being considered by a hearing, is; and
- (b) the local authority are,  
entitled to be heard at the hearing.
- (6) An officer or member entitled to be heard at a hearing shall be entitled to be heard either in person or represented by counsel or a solicitor or any other person.
- (7) The members of the Commission conducting a hearing may—
- (a) require any person, including officers or members or former officers or members of any local authority, to attend the hearing, give evidence and produce documents;
  - (b) administer oaths.
- (8) A person shall not, however, be compelled to give any evidence or produce any documents which that person could not be compelled to give or produce in civil proceedings in the Court of Session.
- (9) A person who, without reasonable excuse, fails to comply with a requirement imposed under subsection (7)(a) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) The Commission may pay persons appearing at a hearing or attending it for the purpose of giving evidence or producing documents such expenses or allowances as it thinks fit.
- (11) A hearing shall be held in public unless the members of the Commission conducting it determine that it is in the public interest that it, or such part of it as they specify for the purposes of this subsection, be not so held.
- (12) In this section, “documents” includes information held by means of a computer or in any other electronic form.]

#### Textual Amendments

**F211** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

#### Modifications etc. (not altering text)

**C116** S. 103C applied (with modifications) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 4(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

VALID FROM 01/01/2002

#### [<sup>F212</sup>103D Findings of hearings

The members of the Commission conducting a hearing under section 103B(1)(b) of this Act shall state their findings in writing and give a copy to—

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- (a) any officer or member of the local authority who is or was blamed in connection with an item of account being contrary to law or whose failure, negligence or misconduct, or alleged failure, negligence or misconduct, was a subject of the hearing;
- (b) the local authority;
- (c) any other person the Commission considers should, under this paragraph, receive such a copy; and
- (d) any other person seeking a copy of those findings who has paid the Commission's reasonable charge for providing such a copy.]

#### Textual Amendments

**F212** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

#### Modifications etc. (not altering text)

**C117** S. 103D applied (with modifications) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 4(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

VALID FROM 01/01/2002

#### <sup>F213</sup> 103E Action by local authorities on receipt of findings under section 103D

- (1) A local authority receiving a copy of findings under section 103D of this Act shall consider those findings at a meeting of the authority within three months of receiving them or within such longer period as the Commission may specify in writing.
- (2) The duty imposed on a local authority by subsection (1) above shall be discharged only by that authority and not by a committee or sub-committee or an officer.
- (3) Where findings received by a local authority contain recommendations under section 103F(3)(b) of this Act, the authority shall decide—
  - (a) whether to accept any or all of those recommendations;
  - (b) what, if any, action to take in response to those recommendations.
- (4) A meeting under subsection (1) above shall not be held unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the local authority concerned, a notice which—
  - (a) states the time and place of the meeting;
  - (b) indicates that the meeting is to be held in order to consider the findings of the Commission and any recommendations in those findings; and
  - (c) describes the nature of those findings and of any such recommendations.
- (5) The local authority shall, as soon as practicable after that meeting—
  - (a) notify the Commission of any decisions made in pursuance of subsection (3) above; and
  - (b) publish, in a newspaper circulating in the area of the local authority, a notice containing a summary, approved by the Commission, of any such decisions.

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- (6) A notice under subsection (5)(b) above shall not need to summarise any decision made while the public were excluded from the meeting—
- (a) under section 50A(2) of this Act (confidential matters) or in pursuance of a resolution under section 50A(4) of this Act (exempt information); but
  - (b) in a case where sections 50C and 50D of this Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents which, in relation to that meeting, are open for inspection in accordance with those sections.
- (7) This section is without prejudice to any other duties (so far as they relate to the subject-matter of findings or recommendations sent to the authority) which are imposed by or under Part VII of this Act, section 5 of the Local Government and Housing Act 1989 (c.42) (functions of monitoring officers) or any other enactment.]

#### Textual Amendments

**F213** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

#### Modifications etc. (not altering text)

**C118** S. 103E applied (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 5(1), 62(2); S.S.I. 2003/134, art. 2(1), Sch.

VALID FROM 01/01/2002

### <sup>F214</sup>103FAction on finding of failure, negligence or misconduct

- (1) Where the members of the Commission conducting a hearing under section 103B(1) (b) of this Act find that—
- (a) any item of account is contrary to law;
  - (b) there has been a failure on the part of any person to bring into account any sum which ought to have been brought into account;
  - (c) any loss has been incurred or deficiency caused by the negligence or misconduct of any person or by the failure of the local authority to carry out any duty imposed on them by any enactment;
  - (d) any sum which ought to have been credited or debited to one account of the local authority has been credited or, as the case may be, debited to another account of the authority and the Commission are not satisfied that the authority has taken or is taking such steps as may be necessary to remedy the matter,
- they may, as appropriate, impose one of the sanctions specified in subsection (2) or make any of the recommendations in subsection (3) below.
- (2) The sanctions which may be imposed under subsection (1) above are—
- (a) censuring, but otherwise taking no action against, an officer or member of the authority;
  - (b) suspending, for a period not exceeding one year, the entitlement of a member of a local authority to attend one or more but not all of the following—

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- (i) all meetings of the local authority;
  - (ii) all meetings of one or more committees or sub-committees of the local authority;
  - (iii) all meetings of any other body on which the member is a representative or nominee of the local authority;
  - (c) suspending, for a period not exceeding one year, the entitlement of a member of a local authority to attend meetings of the local authority and of any committee or sub-committee thereof and of any other body on which the member is a representative or nominee of the local authority;
  - (d) disqualifying a member of a local authority for a period not exceeding five years, from being, or from being nominated for election as, or from being elected, such a member.
- (3) In the case of a local authority, the Commission may—
- (a) make recommendations to the Scottish Ministers that they make an order directing the authority to make such rectification of their accounts as appears to the Commission necessary;
  - (b) include in its findings any recommendations arising from those findings which the Commission think fit.
- (4) A period of suspension imposed under subsection (2)(b) or (c) above which would continue until or after the day of the next following ordinary election of members shall end at the beginning of that day.
- (5) Disqualification imposed under subsection (2)(d) above—
- (a) has the effect of vacating the member’s office; and
  - (b) extends to membership of committees and sub-committees of the local authority of which the member was a member and any joint committee, joint board or other body on which the member is a representative or nominee of the local authority.
- (6) The Commission shall, on making a recommendation under subsection (3)(a) above, forthwith send a copy of that recommendation to the local authority and to any person whom the Commission thinks fit.
- (7) Where the Commission make recommendations to the Scottish Ministers under subsection (3)(a) above, Ministers may make an order giving effect to any recommendation, with or without modifications, or may decline to make such an order.
- (8) A local authority shall give effect to any direction to them made in an order under subsection (7) above.]

#### Textual Amendments

**F214** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

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VALID FROM 01/01/2002

### <sup>F215</sup>103 Interim reports on investigations and action thereon

- (1) The Controller of Audit may submit an interim report on an investigation being conducted by that Controller under section 102(3) of this Act.
- (2) On receiving an interim report, the Commission, if it is satisfied—
  - (a) that the further conduct of the investigation is likely to be prejudiced if the sanction mentioned in subsection (3) below is not imposed; or
  - (b) that otherwise it would be in the public interest to impose that sanction, then it may impose that sanction.
- (3) That sanction is suspending the member of the local authority whose alleged blame in connection with an item of account being contrary to law or whose alleged failure, negligence or misconduct was the subject of the interim report from the entitlement set out in section 103F(2)(c) of this Act for a period not exceeding three months.
- (4) The Commission shall not require to hold a hearing before proceeding to impose that sanction, but shall give the member an opportunity to make representations on the allegations of blame, failure, negligence or misconduct and on the interim report.
- (5) The Commission shall put its decision under this section in writing and shall give a copy to—
  - (a) the member;
  - (b) the authority; and
  - (c) any other person seeking a copy of the decision who has paid the Commission's reasonable charges for providing such a copy.
- (6) A period of suspension imposed under this section ends upon—
  - (a) the issue of findings under section 103D of this Act that the member was not to blame or has not failed, been negligent or been guilty of misconduct;
  - (b) the imposition of a sanction under section 103F of this Act or a decision not to impose such a sanction; or, as the case may be,
  - (c) a decision by the Commission under section 103B of this Act not to hold a hearing.
- (7) A period of suspension imposed under subsection (2) above which would continue until or after the day of the next following ordinary election of members ends at the beginning of that day.
- (8) If, however, the member is re-elected at that election, the Commission may re-impose the suspension.
- (9) The period for which suspension may be re-imposed under subsection (8) above is that for which it would have continued to apply but for subsection (7) above.
- (10) On the expiry (otherwise than by operation of subsection (6) or (7) above) of a period of suspension, it may be renewed by the Commission for a period not exceeding three months and a renewed period may likewise be further renewed.
- (11) Where, but for the suspension under this section, a member would be entitled to receive basic allowance and special responsibility allowance from the authority, the

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suspension shall not affect that entitlement; but nothing in this subsection authorises the payment or reimbursement of travelling, subsistence or other allowances or expenses.

- (12) In subsection (11) above, “basic allowance” and “special responsibility allowance” are the respective allowances referred to in section 18(1)(a) and (c) of the Local Government and Housing Act 1989 (c.42).]

#### Textual Amendments

**F215** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

VALID FROM 01/01/2002

#### [<sup>F216</sup>103H] Protection from actions of defamation

- (1) For the purposes of the law of defamation, any statement made by the Commission or any of its agents or staff of Audit Scotland provided for the Commission under section 10(3) of the Public Finance and Accountability (Scotland) Act 2000 (asp 1) or by the Controller of Audit shall be absolutely privileged.
- (2) In subsection (1) above “statement” has the same meaning as in the Defamation Act 1996 (c.31).]

#### Textual Amendments

**F216** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

VALID FROM 01/01/2002

#### [<sup>F217</sup>103J] Appeals from Commission

- (1) An officer or member of a local authority—
- (a) who is the subject of a finding under section 103F(1) of this Act;
  - (b) on whom a sanction under section 103F(2)(a), (b) or (c) of this Act has been imposed;
  - (c) who has been suspended under section 103G(2) of this Act,
- may appeal to the sheriff principal of the sheriffdom in which the authority has its principal office.
- (2) An appeal—
- (a) under subsection (1)(a) above may be made on one or more of the following grounds—
    - (i) that the Commission’s finding was based on an error of law;



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- (ii) that there has been procedural impropriety in the conduct of any hearing held under section 103B(1)(b) of this Act;
    - (iii) that the Commission has acted unreasonably in the exercise of its discretion;
    - (iv) that the Commission's finding was not supported by the facts found to be proved by the Commission;
  - (b) under subsection (1)(b) above may be made on one or more of the following grounds—
    - (i) that the sanction imposed was excessive;
    - (ii) that the Commission has acted unreasonably in the exercise of its discretion;
  - (c) under subsection (1)(c) above may be made only on the ground that the Commission has acted unreasonably in the exercise of its discretion.
- (3) An appeal under subsection (1) above shall be lodged within 21 days of—
  - (a) the sending of the finding under section 103F(1) of this Act to the officer or member;
  - (b) the imposition of the sanction under section 103F(2) of this Act; or, as the case may be,
  - (c) the imposition of suspension under section 103G(2) of this Act.
- (4) A finding made or sanction imposed by the Commission continues to have effect notwithstanding the lodging of an appeal under subsection (1) above.
- (5) The sheriff principal may—
  - (a) in an appeal under subsection (1)(a) above—
    - (i) confirm the finding under section 103F(1) of this Act;
    - (ii) quash the finding;
    - (iii) quash the finding and remit the matter to the Commission to reconsider its decision;
  - (b) in an appeal under subsection (1)(b) above—
    - (i) confirm the sanction;
    - (ii) quash the sanction and either substitute a lesser sanction or remit the matter back to the Commission;
  - (c) in an appeal under subsection (1)(c) above, quash the suspension;
  - (d) award expenses.
- (6) The decision of the sheriff principal under subsection (1) above is a final judgment for the purposes of section 28 (appeals to the Court of Session) of the Sheriff Courts (Scotland) Act 1907 (c.51).
- (7) In an appeal from the sheriff principal by virtue of subsection (6) above, the Court of Session has the powers specified in subsection (5) above.
- (8) The Commission may be a party to an appeal under subsection (1) above and in any appeal from the decision of the sheriff principal.]

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### Textual Amendments

**F217** Ss. 103(A)-(J) inserted (1.1.2002) by 2000 asp 7, s. 33(3); S.S.I 2001/474 art. 3 (subject to transitional provisions in art. 4)

## 104 Action by Secretary of State on recommendation by Commission under s. 103(3).

(1) Where recommendations are made to the Secretary of State under section 103(3) of this Act the Secretary of State may make an order giving effect to any recommendation, with or without modifications, or may decline to make such an order.

(2) The Secretary of State shall not make an order under subsection (1)

above requiring a person to pay an amount to a local authority if the Secretary of State is satisfied that that person acted reasonably or in the belief that his action was authorised by law, and the Secretary of State shall, in deciding whether or not to make such an order as aforesaid and, if he decides to make it, what amount to specify therein, have regard to all the circumstances of the case, including such information as may be available to him as to the means of any person concerned and his ability to pay any amount to the local authority.

(3) Where by virtue of an order made under subsection (1)

above two or more persons are required to pay an amount to a local authority, those persons shall, if the order so specifies, be liable jointly and severally to pay that amount to the authority.

(4) The Secretary of State shall, on making an order under subsection (1)

above requiring a person to pay an amount to a local authority, forthwith cause a copy of that order to be sent—

- (a) to that person;
- (b) to the Commission; and
- (c) to that authority.

(5) Any amount which, by virtue of an order made under subsection (1)

above, is due to be paid by any person to a local authority shall be paid by that person to the authority within fourteen days of the date on which a copy of that order was sent to him under subsection (4) above; and, if that amount is not so paid, it shall be the duty of the Commission to recover the amount on behalf of the authority and if need be to institute proceedings for that purpose; and the authority shall reimburse the Commission for any expenses incurred by the Commission so far as not recovered from the person liable to pay the amount.

(6) A local authority shall give effect to any direction given to them in an order under subsection (1) above.

### Modifications etc. (not altering text)

**C119** S. 104 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

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[<sup>F218</sup> **104A Audit of accounts of health service bodies: special provisions.**

- (1) Where the auditor of the accounts of a health service body has reason to believe that the body, or any officer of the body—
  - (a) has made a decision which involves the incurring of expenditure which is unlawful; or
  - (b) has taken a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,he shall forthwith make a report to the Controller of Audit.
- (2) On receipt of a report under subsection (1) above the Controller of Audit—
  - (a) shall forthwith send a copy of the report to the Commission and to the Secretary of State; and
  - (b) may, if he thinks fit, send to the Commission and to the Secretary of State any observations which he may have on the report.
- (3) The Commission may make a report to the Secretary of State on any matters arising out of or in connection with the accounts of a health service body.]

**Textual Amendments**

**F218** S. 104A inserted (1.4.1995) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 36(1), [Sch. 7 para. 11](#); [S.I. 1994/2658](#), [art. 4\(a\)](#)

**Modifications etc. (not altering text)**

**C120** S. 104A applied (*temp.* from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 3](#)

**105 Regulations as to accounts.**

- (1) The Secretary of State may by regulations under this section make such provision as appears to him to be necessary or expedient for the purpose of rendering sections 96 to 104 of this Act of full effect and, without prejudice to the foregoing generality, such regulations may contain provisions with respect to the following matters, that is to say—
  - (a) the form, preparation, keeping and authentication of the accounts of local authorities and of any abstract of such accounts;
  - (b) the date in each year before which such accounts and abstract are to be authenticated on behalf of a local authority;
  - (c) the deposit by a local authority, within such period as may be specified in the regulations, of copies of such abstract at the offices of the authority or at any other place, and the publication by the authority of information with respect to such accounts;
  - (d) the exercise, within such period as may be specified in the regulations, of the rights of inspection and objection conferred by section 101 of this Act in relation to any such [<sup>F219</sup>accounts and other documents], and the steps to be taken by a local authority for informing persons of those rights;
  - (e) the giving of public notice by a local authority of any order made in relation to them by the Secretary of State under section 104(1) of this Act.
- (2) Before making regulations under this section, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned.

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- (3) If any person wilfully or negligently contravenes any provision of any regulations made under this section, contravention of which is declared by the regulations to be an offence, he shall be guilty of an offence and shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding [<sup>F220</sup>level 3 on the standard scale], and, in the case of a second or subsequent offence, to a fine not exceeding [<sup>F220</sup>level 3 on the standard scale].
- (4) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F219** Words substituted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. **10(2)**

**F220** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), ss. **289E–289G** (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), s. **54**)

#### Modifications etc. (not altering text)

**C121** S. 105 extended by [Airports Act 1986 \(c. 31, SIF 9\)](#), ss. **24(3)(b)**, 85(4)

**C122** S. 105 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**C123** S. 105(1) extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), s. 25(2), **Sch. 5 Pt. III para. 24**

S. 105(1) applied (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107, **Sch. 11 Pt. III para.25**.

**C124** S. 105(1)(d) extended by [Local Government Act 1986 \(c. 10, SIF 81:1\)](#), ss. **5(4)**, 6, 12

#### [<sup>F221</sup>105A] Studies of benefit administration at request of Secretary of State.

- (1) The Secretary of State may request the Commission to conduct or assist the Secretary of State in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by local authorities of functions relating to the administration of housing benefit and council tax benefit.
- (2) In the following provisions of this section “study” means a study which the Commission are requested to conduct, or assist the Secretary of State in conducting, under subsection (1) above.
- (3) If the Commission require—
  - (a) any local authority included in a study; or
  - (b) any officer or member of such an authority,
 to supply the Commission or an authorised person with such information as is needed for the purposes of the study, the authority or officer or member shall supply the information.
- (4) If the Commission require any local authority included in a study to make available for inspection by the Commission or an authorised person documents which relate to the authority and are needed for the purposes of the study, the authority shall make the documents available.

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- (5) Any information obtained under a requirement under subsection (3) or (4) above may be disclosed by the Commission to the Secretary of State for the purposes of any functions of his which are connected with housing benefit or council tax benefit.
- (6) In subsections (3) and (4) above “authorised person” means a person authorised by the Commission for the purposes of this section.
- (7) The Commission shall send to the Secretary of State a copy of any report of a study; and the Secretary of State or the Commission may send a copy of a report of a study to any local authority to which the study relates.
- (8) Any report of a study may be published by the Secretary of State in conjunction with the Commission.
- (9) The Commission shall not conduct, or assist the Secretary of State in conducting, a study unless, before they do so, the Secretary of State has made arrangements for the payment of such reasonable amount as may be agreed between him and the Commission in respect of the study.]

#### Textual Amendments

**F221** S. 105A inserted (1.7.1997) by 1997 c. 47, s. 7(4); S.I. 1997/1577, art. 2, Sch.

### 106 Application of ss. 93 to 105 to bodies other than local authorities and to officers.

- (1) The foregoing provisions of this Part of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply with respect to the following bodies, that is to say—
  - (a) any committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities;
  - (b) the trustees for any charity, foundation, mortification, or other purpose, where a local authority, or some members of such an authority as such, are the sole trustees for such charity, foundation, mortification or other purpose;
  - <sup>F222</sup>(c) .....  
as they apply with respect to a local authority; and any provision contained in any enactment with respect to such a committee, joint committee or joint board, or in any trust deed or other instrument regulating any such charity, foundation, mortification or other purpose as aforesaid, shall, so far as inconsistent herewith, cease to have effect:  
<sup>F222</sup> .....
- (2) Where an officer of a body whose accounts are required to be audited in accordance with this Part of this Act receives any money or other property on behalf of that body, or receives any money or other property for which he ought to account to that body, the accounts of that officer shall be audited by the auditor of the accounts of the body, and sections 96 to 105 of this Act and any regulations made by the Secretary of State under section 105 of this Act shall, subject to any necessary modifications, apply accordingly to those accounts and that audit.
- <sup>F223</sup>(3) In the application of subsection (2) above to an officer of a health service body, for the words from “96” to “section 105” there shall be substituted “97 to 104A.”]

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**Textual Amendments**

**F222** S. 106(1)(c) and the proviso repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 90(2)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F223** S. 106(3) added (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 12**; S.I. 1994/2658, **art. 4(a)**

**Modifications etc. (not altering text)**

**C125** S. 106 excluded by Local Government and Housing Act 1989 (c.42, SIF 81:1, 2), **s. 11(1)(4)**

**C126** The “said Act of 1967” means Water (Scotland) Act 1967 (c. 78)

*Rating*

**107** ..... **F224**

**Textual Amendments**

**F224** S. 107 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, **Sch. 6**

**108–** ..... **F225**  
**108C**

**Textual Amendments**

**F225** Ss. 108(3)–(6) and 108B, 108C added by Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31, SIF 103:2), **ss. 3, 4** and ss. 108–108C repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, **Sch. 6**

**F226** **109** .....

**Textual Amendments**

**F226** S. 109 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F227** **110** .....

**Textual Amendments**

**F227** S. 110 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117, **Sch. 13 para. 38, Sch.14**; S.I. 1993/575, **art. 2**, **Sch.** (with savings in art. 5(a))

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F228 **110A** .....

**Textual Amendments**

**F228** S. 110A repealed (1.10.1992) by Local Government Finance Act 1992 (c. 14), s. 117, Sch. 13 para. 38, Sch.14; S.I. 1992/2183, art. 2, Sch. (with art. 3).

**111 Secretary of State may make regulations with respect to rates.**

(1) The Secretary of State may, after consultation with such associations of local authorities as appear to him to be concerned, make regulations—

F229 (a) .....

F229 (b) .....

(c) making provision for any matter with respect to which he is empowered or obliged by this Act, or by any other enactment, to make provision in regulations under this section;

F229 (d) .....

(e) providing for the payment of interest, at such rate as may be prescribed, by a local authority to another local authority, to a committee, joint committee or joint board all the members of which, other than any ex officio members, are appointed by one or more local authorities, F230 . . . in a case where any amount due in respect of a requisition made under any enactment is not paid on or before such date as may be prescribed.

(f) ..... F231

(2) A statutory instrument containing regulations made by the Secretary of State under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F229** S. 111(1)(a)(b)(d) repealed (1.4.1996) by Local Government Finance Act 1992 (c. 14), ss. 117, 119(2), Sch. 13 para. 39, Sch. 14; S.I. 1996/918, art. 2(a)(b)(i)

**F230** Words in s. 111(1)(e) repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

**F231** S. 111(1)(f) which was added by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23), Sch. 23, Sch. 3 para. 27 is repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), ss. 6, 34, Sch. 1 Pt. III para. 30(d), Sch. 6

**112**— ..... F232

**114.**

**Textual Amendments**

**F232** Ss. 112–114 repealed and superseded by Social Security and Housing Benefits Act 1982 (c. 24), s. 28(5)(b), Sch. 5

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115 ..... F233

**Textual Amendments**  
F233 S. 115 repealed and superseded by Social Security and Housing Benefits Act 1982 (c. 24), s. 32(7)(b), Sch. 5

*Valuation*

- 116<sup>F234</sup> (1) .....
- <sup>F234</sup> (2) .....
- <sup>F234</sup> (3) .....
- <sup>F234</sup> (4) .....
- <sup>F234</sup> (5) .....
- <sup>F235</sup> (6) .....
- <sup>F234</sup> (7) .....
- <sup>F234</sup> (8) .....

**Textual Amendments**  
F234 S. 116(1)-(5)(7)(8) repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2  
F235 S. 116(6) repealed (4.1.1995) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1994/3150, art. 3(e)(i)

117 ..... F236

**Textual Amendments**  
F236 S. 117 repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. VII

*Miscellaneous*

**118 Local financial returns.**

(1) Subject to subsection (3) below, every authority to which this section applies shall make a return to the Secretary of State in respect of each financial year<sup>F237</sup> . . . of their revenue and expenses.

<sup>F238</sup>(b) .....

(2) Returns under this section shall be in such form, shall contain such particulars, shall be authenticated in such manner, and shall be submitted to the Secretary of State by



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such date, as the Secretary of State may direct, and a direction under this subsection may impose different requirements in relation to returns of different classes.

- (3) If it appears to the Secretary of State that sufficient information about any of the matters mentioned in subsection (1) above has been supplied to him by an authority under any other enactment, he may exempt that authority from all or any of the requirements of this section so far as they relate to that matter.
- (4) The Secretary of State shall, in respect of each year, cause a summary to be made of the returns sent to him under this section and of any information supplied to him under any other enactment in consequence of which he has granted an exemption under subsection (3) above and shall lay that summary before both Houses of Parliament.
- (5) In this section references to an authority to which this section applies are references to a local authority, any committee, joint committee or joint board the members of which, other than ex officio members, are appointed by one or more local authorities<sup>F239</sup> . . . or any river purification board within the meaning of section 135 of this Act.

**Textual Amendments**

**F237** S. 118(1): word "(a)" repealed (1.4.1996) by virtue of 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F238** S. 118(1)(b) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F239** Words in s. 118(5) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**Modifications etc. (not altering text)**

**C127** S. 118 extended by Local Government (Scotland) Act 1975 (c. 30), ss. 10(4), 16, **Sch. 3 para. 10(2)**

119 .....<sup>F240</sup>

**Textual Amendments**

**F240** S. 119 repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, **Sch. 6**

[<sup>F241</sup>**120 Rate support grant.**

- (1) Rate support grant orders under section 3 of the<sup>M35</sup> Local Government (Scotland) Act 1966 shall be made in advance for a period of one year, instead of for successive periods of two years, and accordingly—
  - (a) in section 3(3) of that Act, for the words from “successive periods” to the end of the subsection there shall be substituted the words “a period of one year”;
  - (b) a rate support grant order made before the passing of this Act shall, in so far as it was made in respect of the year 1974-75, cease to have effect.
- (2) If in the exercise of the power conferred on him by section 4 of the said Act of 1966 the Secretary of State at any time after 15th May 1975 redetermines for the year 1974-75 the amount and portion mentioned in paragraphs (a) and (b) of section 2(2) of the said Act of 1966, he may by an order made under the said section 4, instead of increasing to any extent the amount fixed by the rate support grant order made in respect of that

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year as the aggregate amount of the rate support grants and any element of those grants for that year, increase to that extent the amount fixed by the rate support grant order made in respect of the year 1975-76 as the aggregate of the rate support grants and any element of those grants for the last-mentioned year.

(3) Expressions used in this section and in sections 2 to 4 of the said Act of 1966 have the same meanings in this section as in those sections.]

**Textual Amendments**

**F241** S. 120 repealed (1.4.1994) by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

**Marginal Citations**

**M35** 1966 c. 51.

**121** ..... **F242**

**Textual Amendments**

**F242** S. 121 repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 4](#)

**122 Miscellaneous amendments of enactments relating to finance.**

Schedule 9 to this Act shall have effect for making amendments and modifications of enactments relating to local government finance which are not replaced by the foregoing provisions of this Part of this Act.

[<sup>F243</sup>**122A Duty of local authority to use resources efficiently.**

It shall be duty of each local authority to make proper arrangements for securing economy, efficiency and effectiveness in their use of resources.]

**Textual Amendments**

**F243** S. 122A inserted (4.1.1995) by [1994 c. 39, s. 170](#); [S.I.1994/2850](#), art. 3(a), [Sch. 2](#)

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## PART VIII

### FUNCTIONS

#### Education

#### [<sup>F244</sup>123 Education authorities.

The education authority for the purposes of the <sup>M36</sup>Education (Scotland) Act 1980 and any other enactment conferring functions on the education authority shall be a local authority.]

#### Textual Amendments

**F244** S. 123 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(28); S.I. 1996/323, art. 4(1)(c)

#### Marginal Citations

**M36** 1980 c. 44

#### [<sup>F245</sup>124 Membership of committees appointed by education authorities.

- (1) Where an education authority appoint a committee whose purposes include—
  - (a) advising the authority on any matter relating to the discharge of their functions as education authority; or
  - (b) discharging any of those functions of the authority on their behalf,
 the members of such committee shall, notwithstanding the provisions of section 57(3) and (4)(a) of this Act, be appointed in accordance with this section.
- (2) Subject to the provisions of section 59 of this Act, an education authority who appoint a committee such as is mentioned in subsection (1) above shall secure that—
  - (a) at least half of the persons appointed by them to be members of such committee are members of the authority; and
  - (b) the persons appointed by them to be members of such committee shall include the three persons mentioned in subsection (4) below.
- (3) Subject to the provisions of subsection (2) above, an education authority may appoint persons who are not members of the authority to be members of a committee such as is mentioned in subsection (1) above.
- (4) The three persons mentioned in subsection (2)(b) above (who shall not be members of the education authority appointing such committee) are—
  - (a) one representative of the Church of Scotland, nominated in such manner as may be determined by the General Assembly of the Church;
  - (b) in the case of the education authority for each area other than Orkney Islands, Shetland Islands and Western Isles, one representative of the Roman Catholic Church, nominated in such manner as may be determined by the Scottish Hierarchy of the Church; and
  - (c) one person or, in the case of the education authorities for Orkney Islands, Shetland Islands and Western Isles, two persons, in the selection of whom the authority shall have regard (taking account of the representation of churches under paragraphs (a) and (b) above) to the comparative strength within their

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area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there.

- (5) Where two or more authorities appoint a joint committee whose purposes include discharging any of the functions of those authorities as education authorities on their behalf, section 57(3) of this Act shall apply to such a joint committee as if for the words “two-thirds” there were substituted the words “one-half”.]

**Textual Amendments**

**F245** S. 124 substituted (1.4.1996) by 1994 c. 39, s. 31 (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), Sch. 1

<sup>F246</sup> **125** .....

**Textual Amendments**

**F246** S. 125 repealed by Self-Governing Schools Etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), Sch. 11 (subject to savings in s. 54(7) of that Act whereby s. 125 remains in force in relation to any college council appointed under the said section 125 for so long as that council remains in existence)

<sup>F247</sup> **126 Disqualification for membership of committees appointed by education authorities.**

Notwithstanding the provisions of section 59 of this Act, a person shall not, by reason of his being a teacher employed in an educational establishment under the management of an education authority, be disqualified for being a member of—

- (a) a committee such as is mentioned in subsection (1) of section 124 of this Act;
- (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or
- (c) any sub-committee of such a committee or joint committee.]

**Textual Amendments**

**F247** S. 126 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(29); S.I. 1996/323, art. 4(1)(c)

<sup>F248</sup> **127** .....

**Textual Amendments**

**F248** S. 127 repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

**128 Educational endowments.**

- (1) Where, immediately before 16th May 1975, any educational endowment is to any extent vested in the existing local authority for an area specified in the first column of Table A below, that endowment shall on that day to that extent be transferred to and

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vest for the same purposes in the appropriate new local authority for the area specified in relation thereto in the second column of that Table.

TABLE A

Existing area	New area
County	Region or islands area
County of a city	
Large burgh	District or islands area
Small burgh	
District	

- (2) Where, immediately before 16th May 1975, any educational endowment is to any extent to be vested, by virtue of his office, in the holder of any office connected with an existing local authority specified in the first column of Table B below, that endowment shall on that day to that extent be transferred to and vest for the same purposes in the holder of the office, specified in relation thereto in the second column of that Table, of the appropriate new local authority as determined by reference to subsection (1) above.

TABLE B

Existing office-holder	New office-holder
Lord Provost	[ <sup>F249</sup> Convener of council]
Provost	
Convener of county	
Chairman of district council	
MagistrateCouncillorChairman of or member of a committee	Councillor, or any other person nominated by the council
Any specified officer	The corresponding officer or (if there is no such officer) the proper officer

- (3) Where, immediately before 16th May 1975, any power with respect to an educational endowment is vested in an existing local authority, or (by virtue of his office) in the holder of an office connected with such an authority, that power shall on that day be transferred to and vest in the appropriate new local authority or (as the case may be) in the new office-holder of that authority, as ascertained by reference to subsections (1) and (2) above.
- (4) Subject to the provisions of the governing instrument of an educational endowment, where, as the result of the election of a local authority occurring after 16th May 1975, it is necessary for a person to be nominated by the authority or by a committee thereof to be vested (to any extent) with the endowment, in terms of subsection (2) above, or to be vested with any power, in terms of subsection (3) above, that person shall be so nominated at the first meeting of the authority or committee held after it has been elected or appointed; and in such a case the person who (to the said extent) was last vested with the endowment or, as the case may be, who was last vested with the power, before the meeting shall continue therein until the date of the meeting.
- (5) In this section, unless the context otherwise requires, expressions used in Part VI of the <sup>M37</sup>Education (Scotland) Act 1962 have the same meaning as in that Part, and “the appropriate new local authority” means, in relation to an existing local authority, the

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new authority whose area comprises the whole or the greater part of the area of the existing authority: and if, in any case, there is a dispute as to such appropriate authority, or as to the person or persons corresponding to an existing office-holder or office-holders for the purposes of this section, it shall be taken to be such new local authority or, as the case may be, person or persons as the Secretary of State may direct.

- (6) Nothing in this section shall affect any other power to reorganise any educational endowment or otherwise to alter the provisions of any trust.

#### Textual Amendments

**F249** S. 128(2): words in Table B substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(30)**; S.I. 1996/323, **art. 4(1)(c)**

#### Modifications etc. (not altering text)

**C128** S. 128 excluded by Local Government (Scotland) Act 1975 (c. 30), s. 16, **Sch. 3 para. 13(1)**

#### Marginal Citations

**M37** 1962 c. 47.

**F250** **129** .....

#### Textual Amendments

**F250** S. 129 repealed by Education (Scotland) Act 1980 (c. 44), **Sch. 5**

### *Housing*

#### **130 Housing.**

- (1) Subject to the provisions of this and the next following section, the local authority for the purposes of the Housing (Scotland) [<sup>F251</sup>Act 1987] shall be [<sup>F252</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- [<sup>F253</sup>(2) Before any local authority exercise outwith their area any power under Part I of the <sup>M38</sup>Housing (Scotland) Act 1987 (provision of housing accommodation) the authority shall give notice of their intention to do so to the local authority in whose area they propose to exercise the power, but failure to give any such notice shall not invalidate the exercise of the power.]
- <sup>X1</sup>(3) The enactments relating to housing specified in Schedule 12 to this Act shall be amended in accordance with the provisions of that Schedule.

#### Editorial Information

**X1** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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**Textual Amendments**

- F251** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 20(1)(a)**
- F252** Words in s. 130(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(31)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F253** S. 130(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(31)(b)**; S.I. 1996/323, **art. 4(1)(c)**

**Marginal Citations**

- M38** 1987 c. 26.

<sup>F254</sup>**131** .....

**Textual Amendments**

- F254** S. 131 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

<sup>F255</sup>**132** .....

**Textual Amendments**

- F255** S. 132 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

*The environment*

**133 Roads.**

<sup>F256</sup>(1) .....

- (2) The powers and duties vested in the council of each county in relation to roads by virtue of section 11 of the <sup>M39</sup>Local Government (Scotland) Act 1889 shall be transferred to and vested in the [<sup>F257</sup>local roads authority].

**Textual Amendments**

- F256** S. 133(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(32), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F257** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 73**

**Marginal Citations**

- M39** 1889 c. 50.

**134 Building.**

<sup>F258</sup>(1) .....

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<sup>x2</sup>(2) The <sup>M40</sup>Building (Scotland) Act 1959 shall have effect subject to the amendments specified in Part I of Schedule 15 to this Act, and Part II shall have effect for making amendments to other enactments relating to building.

**Editorial Information**

**X2** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Textual Amendments**

**F258** S. 134(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(33), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**Marginal Citations**

**M40** 1959 c. 24.

<sup>F259</sup>**135** .....

**Textual Amendments**

**F259** S. 135 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 23 para. 6); S.I. 1996/186, art. 3(xiii)

<sup>F260</sup>**135A** .....

**Textual Amendments**

**F260** S. 135A repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3(xiii)

[<sup>F261</sup>**136 Deposit of poisonous waste.**

- (1) The local authority for the purposes of the <sup>M41</sup>Deposit of Poisonous Waste Act 1972 shall be an islands council or a district council; and accordingly in section 5(1)(b) of that Act for the words “county councils and town” there shall be substituted the words “ islands councils and district ”.
- (2) In section 3(5), 4(3) and 5(3) of that Act for any reference to a river purification board there shall be substituted a reference to a river purification authority.
- (3) In section 7 of that Act after the definition of “refuse tip” there shall be inserted the following definition “ “river purification authority” has the same meaning as in section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951, but shall not include an islands council. ”]



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#### Textual Amendments

**F261** S. 136 repealed (prosp.) by [Control of Pollution Act 1974 \(c. 40\)](#), s. 109(2), [Sch. 4](#)

#### Marginal Citations

**M41** 1972 c. 21.

### 137 Flood prevention and flood warning systems.

**F262**(1) .....

**F263**(2) .....

#### Textual Amendments

**F262** S. 137(1) repealed (1.4.1996) by [1994 c. 39](#), s. 180(1)(2), [Sch. 13 para. 92\(36\)](#), [Sch. 14](#); [S.I. 1996/323](#), art. 4(1)(c)(d), [Sch. 2](#)

**F263** S. 137(2) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#)

### 138 Coast protection.

**F264**(1) .....

<sup>X3</sup>(2) In the said Act of 1949 the following amendments shall be made—

(a) for section 1(1) (coast protection authorities), there shall be substituted the following subsection—

“(1) The council of a region any part of which adjoins the sea or of an islands area shall be the coast protection authority for that region or area, as the case may be.”;

(b) in section 20(5) (contributions towards expenses of coast protection) for the word “burgh” there shall be substituted the word “ district ”;

(c) in section 22 (power to use for incidental purposes land acquired for coast protection)—

(i) in subsection (2), for the words “burgh or county” there shall be substituted the words “ region or islands area ”.

(ii) in subsection (3), for the reference to the <sup>M42</sup>Local Government (Scotland) Act 1947 there shall be substituted a reference to the Local Government (Scotland) Act 1973;

(d) in section 30 (transfer and compensation of officers, and superannuation rights), at the end there shall be added the following subsection—

“(4) This section shall not apply to Scotland.”;

(e) in section 45(1)(b) (service of notices and other documents), for the words “or burgh” there shall be substituted the words “ or in Scotland the council of a region, islands area or district ”;

(f) in section 46(4) (local inquiries), for the words from “subsection (2)” to “1947” there shall be substituted the words “ subsection (2) and subsections (4) to (8) of section 210 of the Local Government (Scotland) Act 1973 ”;

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(g) in Schedule 1 (procedure for making orders), for paragraph 8(b) there shall be substituted the following sub-paragraph—

“(b) for references to the London Gazette and to a county or county district there shall be substituted respectively references to the Edinburgh Gazette and to a region, islands area or district”.

**Editorial Information**

**X3** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Textual Amendments**

**F264** S. 138(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(37), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**Marginal Citations**

**M42** 1947 c. 43.

<sup>F265</sup>**139** .....

**Textual Amendments**

**F265** S. 139 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

<sup>F266</sup>**140** .....

**Textual Amendments**

**F266** S. 140 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(38), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**141 Public conveniences.**

The local authority for the purposes of section 5 of the <sup>M43</sup>Chronically Sick and Disabled Persons Act 1970 (public conveniences) shall be a local authority within the meaning of this Act, and accordingly in subsection (3) of that section, for the word “1947” there shall be substituted the word “ 1973 ”.

**Marginal Citations**

**M43** 1970 c. 44.

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F267 **142** .....

**Textual Amendments**

**F267** S. 142 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(39), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F268 **143** .....

**Textual Amendments**

**F268** S. 143 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(40), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**144** <sup>X4</sup>† **Diseases of animals, and plant health.**

F269 (1) .....

(3) A competent authority under the <sup>M44</sup>Plant Health Act 1967 shall no longer have certain powers of direction, and accordingly, in section 5(2) of that Act (records of proceedings), the words from “in such manner” to “direct” shall be omitted, and, in section 6(3) of that Act (publication of orders), the words from “in such”(where first occurring) to “direction” shall cease to have effect.

**Editorial Information**

**X4** Unreliable marginal note.

**Textual Amendments**

**F269** S. 144(1)(2) repealed by **Animal Health Act 1981** (c. 22), **Sch. 6**

**Marginal Citations**

**M44** 1967 c. 8.

**145** **Ordnance Survey.**

(1) The <sup>M45</sup>Ordnance Survey Act 1841 (in this section referred to as “the 1841 Act”) shall have effect subject to the modifications set out in this section.

(2) An application under section 1 as read with section 17 of the 1841 Act shall be made to the proper officer of the [<sup>F270</sup>local authority], and where such an application is made, the function of appointing a person to assist in examining, ascertaining and marking out reputed boundaries shall be exercisable by the [<sup>F271</sup>authority] to whose proper officer the application was made.

F272 (3) .....

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- (4) (a) References, in whatever terms in the 1841 Act, to the sheriff by whom a person is appointed under section 1 as read with section 17 of that Act shall be construed as references to the [F273]local authority].
- (b) References in the 1841 Act to the sheriff clerk or sheriff clerk depute shall be construed as references to the proper officer of the [F273]local authority].
- (5) References in the 1841 Act to a county shall be construed as references to [F274]the area of a local authority], including the electoral areas thereof and other places therein.

#### Textual Amendments

**F270** Words in s. 145(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(41)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**

**F271** Word in s. 145(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(41)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

**F272** S. 145(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIII** Group 1

**F273** Words in s. 145(4)(a)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(41)(b)**; S.I. 1996/323, **art. 4(1)(c)**

**F274** Words in s. 145(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(41)(c)**; S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M45** 1841 c. 30.

### Miscellaneous functions

#### 146 Police.

- (1) The <sup>M46</sup>Police (Scotland) Act 1967 shall be amended in accordance with subsections (2) to (9) below.
- <sup>X5</sup>(2) For section 1(1) of that Act (police areas) there shall be substituted the following subsection—
- “(1) Subject to the provisions of any amalgamation scheme, a police force shall be maintained for every region and for every islands area, and the provisions of this Act shall have effect in relation to any police force so maintained and to the constables thereof.”
- <sup>X5</sup>(3) In section 2(1) (police authorities), for the words from the beginning to “police authority” there shall be substituted the words “For every police area which is a region, the regional council, and for every police area which is an islands area the islands council, shall be the police authority”.
- <sup>X5</sup>(4) Section 4(3) of that Act (same person may be chief constable of more than one police force) shall cease to have effect on 16th May 1975.
- <sup>X5</sup>(5) Section 18 of that Act (jurisdiction of constables as respects execution of warrants in border counties of England and Scotland) shall be amended as follows—
- (a) in subsection (1) for the words from “Scotland” to “Dumfries” there shall be substituted the words “any one of the border [F275]areas] of Scotland, that is to say, the counties of Northumberland or Cumbria, or the [F275]areas] of

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the Borders or Dumfries and Galloway ”, and after the word “counties” or “county” wherever it occurs there shall be inserted respectively the words “ or [F275areas] ” or “ or [F275area] ”;

- (b) in subsection (2) for paragraph (b) there shall be substituted the following paragraph—

“(b) references to the [F275area] of the Borders or Dumfries and Galloway shall be construed as including references to a combined area within the meaning of this Act comprising either of those [F275areas].”

- X5(6) In sections 20(5) (power of Secretary of State to make amalgamation schemes) and 29(3) (local inquiries) of that Act, for the reference to subsections (3) to (9) of section 355 of the Local Government (Scotland) Act 1947 there shall be substituted a reference to subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973.

F276(7) .....

- X5(8) For section 23 of that Act there shall be substituted the following section—

**“23 Chief constables affected by amalgamations or local government reorganisations.**

- (1) If the chief constable of a police force which ceases to exist in consequence of an amalgamation scheme, or an order under section 216 of the Local Government (Scotland) Act 1973, is not appointed as from the date when that police force ceases to exist—
- (a) chief constable of the new force, or
  - (b) constable of any rank in any other police force which exists on that date,

he shall on that date become a constable of the new force (or, if there is more than one new force established by the amalgamation scheme or order, of such one of them as may be provided by the scheme or order) by virtue of this subsection.

- (2) While a person is a constable of a police force by virtue only of subsection (1) above he shall hold the rank of assistant chief constable, but shall be treated for the purposes of his pay, pension and other conditions of service as if he had continued to be chief constable of the force which ceased to exist.
- (3) A chief constable who becomes a constable of a police force by virtue of subsection (1) above shall, subject to regulations under Part II of this Act, cease to be a constable thereof at the expiration of three months unless he has then accepted and taken up an appointment in that force in some other capacity.
- (4) The provision to be made by regulations under section 24 of the Superannuation Act 1972 or section 219 of the Local Government (Scotland) Act 1973 with respect to the chief constable of a police force who, after becoming a constable of another police force by virtue of subsection (1) above, ceases to be a constable of that force without having accepted and taken up an appointment in that force in a capacity other than that of chief constable shall, if he was the chief constable of a police force on 15th May 1975, be not less favourable than any provision by way of pension that would have

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been payable to or in respect of him by virtue of the Police Pensions Act 1948 had the first-mentioned police force been combined with another force by an amalgamation scheme under the Police (Scotland) Act 1956 and he had neither been transferred to the combined force nor agreed to continue to serve therein in a capacity other than that of chief constable within three months; and section 2(1)(b) of the Police Pensions Act 1948 shall not apply to a constable who is first appointed a chief constable on or after 16th May 1975 and who is affected by this section.

(5) The relevant authority shall offer the chief constable of a police force which ceases to exist on 16th May 1975 (other than a chief constable who has been appointed the chief constable of a new force) an appointment to take effect not later than 16th August 1975 at the rank of assistant chief constable in the relevant new force.

(6) In this section—

“new force” has the same meaning as it has for the purposes of Schedule 2 to this Act;

“relevant authority” means the police authority or, as the case may be, the joint police committee responsible for the appointment of the chief constable of the relevant new force;

“relevant new force” means the new force to which the majority of the constables of a police force which ceases to exist on 16th May 1975 are transferred.”

<sup>x5</sup>(9) In section 51 (1) (general interpretation), in the definition of “amalgamation scheme”, for the words “or section 20” there shall be substituted the words “ section 20 or section 21A ”.

(10) Sections 24 and 25 of the said Act of 1967 and Schedule 2 thereto shall, subject to any necessary modifications, apply to an order under section 215 of this Act as they apply to an amalgamation scheme under that Act.

#### Editorial Information

**X5** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Textual Amendments

**F275** S. 146(5)(a)(b): words "areas" and "area" substituted (S.) (1.4.1996) for the words "regions" and "region" respectively by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(42)**; S.I. 1996/323, **art. 4(1)(c)**

**F276** S. 146(7) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**

#### Marginal Citations

**M46** 1967 c. 77.

#### [<sup>F277</sup>147 Fire services.

(1) Subject to the provisions of this section, the fire brigades maintained in Scotland for the purposes of the Fire Services Acts 1947 to 1959 by fire authorities or,

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where administration schemes have been made, joint committees for combined areas immediately before 1st April 1996 shall continue in existence on and after that date.

- (2) Subject to the provisions of the <sup>M47</sup>Fire Services Act 1947, the fire authority for the purposes of the Fire Services Acts 1947 to 1959 shall, until 31st March 1996, continue to be a regional or islands council and thereafter shall be a local authority.
- (3) The fire brigades for the existing fire authorities of Fife and Dumfries and Galloway shall be the fire brigades for the new fire authorities of the same names.
- (4) The Secretary of State shall, before 1st April 1996, by order make schemes (hereafter referred to as “administration schemes”) for the local government areas comprised in each of the combined areas set out in the Table at the end of this subsection for the provision in the combined area of the services required by section 1 of the Fire Services Act 1947; and the fire brigades for the existing areas shown in brackets in the first column shall be the fire brigades for the new combined areas.

TABLE

<i>Combined area</i>	<i>Local government areas comprised</i>
Central (Central Region).	Clackmannan, Falkirk, Stirling.
North Eastern (Grampian Region).	Aberdeenshire, City of Aberdeen, Moray.
Northern (Northern).	Highland, Orkney Islands, Shetland Islands, Western Isles.
South Eastern (South Eastern).	East Lothian, Midlothian, West Lothian, the Borders, City of Edinburgh.
Mid and South Western (Strathclyde Region).	Argyll and Bute, City of Glasgow, Dumbarton and Clydebank, East Dunbartonshire, Inverclyde, East Renfrewshire, East Ayrshire, North Ayrshire, South Ayrshire, North Lanarkshire, South Lanarkshire, Renfrewshire.
Mid Eastern (Tayside Region).	Angus, City of Dundee, Perthshire and Kinross.

- (5) Subject to subsection (6) below, an administration scheme made under this section may contain such provision as the Secretary of State considers necessary or appropriate for the purposes of the scheme including, without prejudice to the generality of the foregoing, any provision which is required to be made, or which may be made, in an administration scheme under section 36 of the Fire Services Act 1947.
- (6) An administration scheme made under this section shall provide for the incorporation of the joint board with a common seal and shall confer on such a board power to hold land and to borrow money.
- (7) Before making an administration scheme under this section the Secretary of State shall—
  - (a) consult such fire authorities as appear to him to be affected by the scheme; and

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- (b) where any such authority submit objections to the scheme, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.
- (8) An administration scheme made under this section shall not take effect before 1st April 1996, except so far as it relates to—
  - (a) the constitution of the joint board for fire services; and
  - (b) the performance by that board of functions necessary for bringing the scheme into full operation on that date.
- (9) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F277** S. 147 substituted (6.4.1995) by 1994 c. 39, s. 36 (with s. 7(2)); S.I. 1995/702, art. 4(1), **Sch. 2**

**Marginal Citations**

**M47** 1947 c. 41.

**148 Water.**

<sup>F278</sup>(1) .....

<sup>F279</sup>(2) .....

(8) Schedule 17 to this Act shall have effect for making amendments to the enactments relating to water.

<sup>F279</sup>(9) .....

**Textual Amendments**

**F278** S. 148(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(40), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F279** S. 148(2)–(7), (9) repealed by Water (Scotland) Act 1980 (c. 45), **Sch. 11**

<sup>F280</sup>**149** .....

**Textual Amendments**

**F280** S. 149 repealed by Weights and Measures Act 1985 (c. 72, SIF 131), s. 98, **Sch. 13 Pt. I**

[<sup>F281</sup>**150** **Schedule 18 to continue to have effect.**

Schedule 18 to this Act (amendment of certain enactments relating to transport) shall continue to have effect.]



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**Textual Amendments**

**F281** S. 150 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(43)**; S.I. 1996/323, **art. 4(1)(c)**

**F282** **151** .....

**Textual Amendments**

**F282** S. 151 repealed by **Transport Act 1985 (c. 67, SIF 126)**, s. 139(3), **Sch. 3 para. 27, Sch. 8**

**F283** **152** .....

**Textual Amendments**

**F283** S. 152 repealed by **Civil Aviation Act 1982 (c. 16)**, s. 109(3), **Sch. 16**

**153 Ferries.**

- (1) All rights which are presently vested in [<sup>F284</sup>regional or islands councils] in relation to ferries, all functions relating thereto, and all liabilities to which those authorities are subject in that connection, are hereby transferred to the <sup>F285</sup> . . . council within whose area the ferry is situated.
- (2) A <sup>F286</sup> . . . council or any two or more <sup>F287</sup> . . . councils acting in combination may acquire, provide, maintain, improve and operate any ferry situated wholly or partly within their area or areas, but <sup>F287</sup> . . . a council or councils acting in combination may only exercise those powers as respects a ferry situated partly within their area or areas and partly within the area of another such council if the agreement of that other council has first been obtained.
- (3) A <sup>F288</sup> . . . council or any two or more <sup>F289</sup> . . . councils acting in combination may
  - (a) incur capital expenditure and borrow money for the purposes of exercising their powers under subsection (2) above;
  - (b) lease or hire a ferry to or from another person on such conditions as they think fit;
  - (c) enter into arrangements with another person for the operation of a ferry by that person on their behalf; and
  - (d) from time to time fix fares and charges for the use of any ferry operated by virtue of this section, and adequate publicity as to those fares and charges shall be given by them within their area.
- (4) If in any year the revenue received by a council, or by two or more councils acting in combination, in respect of a ferry operated by virtue of this section is insufficient to defray the expenditure incurred in operating and maintaining in an efficient state any such ferry and any sums required to meet interest, sinking fund or other loan charges, the deficiency shall be met out of rates by the council in whom the ferry is vested, or in the case of a ferry vested in two or more councils in combination, by those councils in such proportions as may be fixed by the combination agreement.

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(5) In this section [<sup>F290</sup>—]

[<sup>F290</sup>“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and]

“ferry” includes all rights pertaining thereto (including rights of access) and all boats, vessels, landing stages, plant and apparatus used in connection with the ferry, but does not include a harbour transferred by virtue of section 154 of this Act.

#### Textual Amendments

- F284** Words in s. 153(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(44)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F285** Words in s. 153(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(44)(a)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F286** Words in s. 153(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(44)(b)(i), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F287** Words in s. 153(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(44)(b)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F288** Words in s. 153(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(44)(c)(i), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F289** Word in s. 153(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(44)(c)(ii), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F290** Definition of “council” in s. 153(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(44)(d)**; S.I. 1996/323, **art. 4(1)(c)**

## 154 Piers and Harbours.

- (1) <sup>F291</sup> . . . , all rights which are presently vested in [<sup>F292</sup>regional, islands or district councils] in relation to harbours, piers, boatslips and jetties, all functions relating thereto, and all liabilities to which [<sup>F293</sup>regional, islands or district councils] are subject in that connection, are hereby transferred to the <sup>F294</sup> . . . council within whose area the harbour, pier, boatslip or jetty is situated, and the enactments specified in Schedule 19 to this Act shall have effect subject to the amendments set out in that Schedule.
- (2) Where a harbour is situated partly within the area of one <sup>F295</sup> . . . council and partly within the area of another <sup>F295</sup> . . . council, all such rights, functions and liabilities as aforesaid shall be transferred to those councils jointly.
- (3) A <sup>F296</sup> . . . council or any two or more <sup>F297</sup> . . . councils acting in combination may acquire by agreement, or, if so authorised by the Secretary of State, may acquire compulsorily—
- (a) land for the purpose of constructing, re-constructing, extending or improving a marine work;
  - (b) any harbour whose acquisition is considered by the council to be desirable in the interests of their area and
    - (i) whose maintenance is to be discontinued by its owner, or
    - (ii) which is considered by the council to be in a poor state of repair,
 and sections 70(2) to (5) and 71(3) and (4) of this Act shall apply respectively to acquisition by agreement or compulsorily under this subsection as they apply for the purposes of those sections.

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F298(3A) .....

F298(3B) .....

(4) If a local authority so elects and notifies the Secretary of State accordingly, Part III of the <sup>M48</sup>Harbours, Piers and Ferries (Scotland) Act 1937 shall apply to any harbour transferred to or acquired by them under this section which is not a marine work as if it were a marine work.

(5) A local authority may make loans to a harbour authority for a harbour wholly or partly situated within their area, on such terms as may be agreed between the local authority and the harbour authority, for the purpose of enabling the harbour authority to do anything which they have power to do.

(6) Where provisions of the <sup>M49</sup>Harbours, Docks and Piers Clauses Act 1847 have been incorporated with any enactment, the amendments made by this Act in that Act shall be so incorporated.

(7) In this section [F299—]  
[F299“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and]  
“harbour authority” and “marine work” have the same meanings as in section 57(1) of the <sup>M50</sup>Harbours Act 1964 and so has “harbour” except that it does not include a ferry within the meaning of section 153(5) of this Act

#### Textual Amendments

- F291** Words in s. 154(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(a)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F292** Words in s. 154(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(45)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F293** Words in s. 154(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(45)(a)(iii)**; S.I. 1996/323, **art. 4(1)(c)**
- F294** Words in s. 154(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(a)(iv), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F295** Words in s. 154(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F296** Words in s. 154(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(c)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F297** Words in s. 154(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(c)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F298** S. 154(3A)(3B) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F299** Definition of "council" in s. 154(7) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(45)(e)**; S.I. 1996/323, **art. 4(1)(c)**

#### Modifications etc. (not altering text)

- C129** S. 154 certain functions transferred (18.11.1990) by S.I. 1991/43, **art. 3(1)**.  
S. 154 certain functions transferred (25.2.1991) by S.I. 1991/1082, **art. 3(1)**.  
S. 154 certain functions transferred (8.2.1993) by S.I. 1993/321, **art. 3(1)**

#### Marginal Citations

- M48** 1937 c. 28.

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**M49** 1847 c. 27.

**M50** 1964 c. 40.

**F300 154A** .....

**Textual Amendments**

**F300** S. 154A repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F301 154B** .....

**Textual Amendments**

**F301** S. 154B repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**155 Factories.**

**F302** (1) .....

<sup>X6</sup>(2) In section 46(6) (bye-laws), for the words “301 to 303” there shall be substituted the words “ 201 to 204 ” and for the word “1947”, where it twice occurs, there shall be substituted the word “ 1973 ”.

<sup>X6</sup>(3) In section 47(1) (means of escape), the word “either” and the words from “or, where” to the end shall cease to have effect.

**F303** (4) .....

<sup>X6</sup>(5) In section 153(3) (provisions as to councils), the words “a county council and” shall cease to have effect.

<sup>X6</sup>(6) Section 181(3) (definition of “district council” for certain purposes), shall cease to have effect.

<sup>X6</sup>(7) In section 182 (application to Scotland), subsection (2) shall cease to have effect, and in subsection (9) for the words “county and town” there shall be substituted the words “ islands and district ”.

**Editorial Information**

**X6** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Textual Amendments**

**F302** S. 155(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(46), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F303** S. 155(4) repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

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**156 Offices, shops and railway premises.**

<sup>F304</sup>(1) .....

<sup>X7</sup>(2) In section 52(3) of that Act (enforcement authorities), paragraph (a) and in paragraph (c), the words “the council of a county” shall cease to have effect.

<sup>X7</sup>(3) In section 62(3) (local inquiries), for the words from “(3)” to “1947” there shall be substituted the words “(2) to (8) of section 210 of the Local Government (Scotland) Act 1973”.

**Editorial Information**

**X7** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Textual Amendments**

**F304** S. 156(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(47), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

<sup>F305</sup>**157** .....

**Textual Amendments**

**F305** S. 157 repealed (1.12.1994) by 1994 c. 40, s. 81, **Sch. 17**; S.I. 1994/3037, **art. 2(e)(v)** and expressed to be repealed (prosp.) by 1994 c. 39, ss. 180(1)(2), 184(2), Sch. 13 para. 92(48), **Sch. 14**

<sup>F306</sup>**158** .....

**Textual Amendments**

**F306** Ss. 158, 162, 164 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

<sup>F307</sup>**159** .....

**Textual Amendments**

**F307** S. 159 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(49), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

<sup>F308</sup>**160** .....

*Status:* Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Local Government (Scotland) Act 1973 is up to date with all changes known to be in force on or before 19 January 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)

**Textual Amendments**

**F308** S. 160 repealed by [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. II**

<sup>F309</sup>**161** .....

**Textual Amendments**

**F309** S. 161 repealed (1.4.1996) by [1994 c. 39, s. 180\(2\)](#), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

<sup>F310</sup>**162** .....

**Textual Amendments**

**F310** Ss. 158, 162, 164 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), **Sch. 4 Pt. I**

**163 Public libraries, museums and art galleries.**

<sup>F311</sup>(1) .....

(2) A local authority <sup>F312</sup>. . . shall have a duty to secure the provision of adequate library facilities for all persons resident in their area.

<sup>F313</sup>(3) .....

(4) Schedule 21 to this Act shall have effect for making amendments to the enactments relating to public libraries, museums and art galleries.

**Textual Amendments**

**F311** S. 163(1) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), Sch. 13 para. 92(50)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F312** Words in s. 163(2) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), Sch. 13 para. 92(50)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F313** S. 163(3) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), Sch. 13 para. 92(50)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

<sup>F314</sup>**164** .....

**Textual Amendments**

**F314** Ss. 158, 162, 164 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), **Sch. 4 Pt. I**

*Status:* Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

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## 165 Spray irrigation.

The functions of river purification boards under the <sup>M51</sup>Spray Irrigation (Scotland) Act 1964 shall be exercisable by river purification authorities, and accordingly in that Act, for the words “board” and “boards”, wherever they occur, there shall be substituted respectively the words “ authority ” and “ authorities ”.

### Marginal Citations

**M51** 1964 c. 90.

## 166 Registration of births, deaths and marriages.

<sup>F315</sup>(1) .....

<sup>X8</sup>(2) Accordingly the following amendments shall be made in that Act—

- <sup>F316</sup>(a) .....
- (b) in section 6(4) (local inquiries), for the words from “subsections” to “1947” there shall be substituted the words “ subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 ”;
- (c) in section 8(5) (custody of keys), the words from “by their” to “town clerk” shall cease to have effect;
- (d) in section 9(2) (combination of local authorities), for the words from “section”, where last occurring, to “1947” there shall be substituted the words “ sections 56 to 58 of the Local Government (Scotland) Act 1973 ”;
- <sup>F316</sup>(e) .....
- <sup>F316</sup>(f) .....

### Editorial Information

**X8** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### Textual Amendments

**F315** S. 166(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**F316** S. 166(2)(a)(e)(f) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

<sup>F317</sup>167 .....

### Textual Amendments

**F317** S. 167 repealed by Statute Law (Repeals) Act 1981 (c. 19), **Sch. 1 Pt. VII**

<sup>F318</sup>168 .....

**Status:** Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Local Government (Scotland) Act 1973 is up to date with all changes known to be in force on or before 19 January 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)

### Textual Amendments

**F318** S. 168 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(51), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

## 169 Burial grounds, churchyards etc.

- (1) The functions of [<sup>F319</sup>islands or district councils] under the <sup>M52</sup>Burial Grounds (Scotland) Act 1855 and the <sup>M53</sup>Cremation Acts 1902 <sup>M54</sup> and 1952 shall be transferred to and vest in [<sup>F320</sup>councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (2) The functions of councils under the <sup>M55M56</sup>Church of Scotland (Property and Endowments) Acts 1925 and 1933 shall be transferred to and vest in islands and district councils in accordance with the amendments to those Acts set out in Part II of Schedule 27 to this Act.

### Textual Amendments

**F319** Words in s. 169(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(52)(a); S.I. 1996/323, art. 4(1)(c)

**F320** Words in s. 169(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(52)(b); S.I. 1996/323, art. 4(1)(c)

### Marginal Citations

**M52** 1855 c. 68.

**M53** 1902 c. 8.

**M54** 1952 c. 31.

**M55** 1925 c. 33.

**M56** 1933 c. 44.

## 170 War memorials.

- (1) The local authority for the purposes of the <sup>M57</sup>War Memorials (Local Authorities' Powers) Act 1923 as extended to Scotland by section 133(3) of the <sup>M58</sup>Local Government Act 1948 shall be a [<sup>F321</sup>local authority within the meaning of this Act]; and the powers conferred on a local authority by section 1 of the said Act of 1923 as so extended with regard to war memorials shall apply to any war memorial outside as well as within their area.
- <sup>x9</sup>(2) In consequence of subsection (1) above the said section 133(3) shall have effect as if—
  - (a) after the word “modifications” there were inserted the following head—
    - “(ia) in section 1, for the words “within their district” there shall be substituted the words “ whether within or outside their area ”;”
  - (b) for head (ii) there were substituted the following head—
    - “(ii) “local authority” means a regional, islands or district council.”



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### Editorial Information

**X9** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### Textual Amendments

**F321** Words in s. 170(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(53)**; S.I. 1996/323, **art. 4(1)(c)**

### Marginal Citations

**M57** 1923 c. 18.

**M58** 1948 c. 26.

*[<sup>F322</sup> Heating and electricity]*

### Textual Amendments

**F322** Ss. 170A, 170B inserted by Electricity Act 1989 (c. 29, SIF 44:1), ss. 102, 112(3), Sch. 13, **Sch. 17 para. 35(1)**

## 170A Production and supply of heat and electricity etc. by local authorities.

- (1) Subject to subsections (2) and (3) of this section, a local authority may—
  - (a) produce heat or electricity or both;
  - (b) establish and operate such generating stations and other installations as the authority think fit for the purpose of producing heat or electricity or both;
  - (c) buy or otherwise acquire heat;
  - (d) use, sell or otherwise dispose of heat produced or acquired, or electricity produced, by the authority by virtue of this section;
  - (e) without prejudice to the generality of the preceding paragraph, enter into and carry out agreements for the supply by the authority, to premises within or outside the authority's area, of such heat as is mentioned in the preceding paragraphs and steam produced from and air and water heated by such heat.
- (2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.
- (3) Except in such cases as may be prescribed, [<sup>F323</sup> or in cases where it is produced from waste,] a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.
- (4) A local authority may—
  - (a) construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the authority by virtue of this section and steam produced from and air and water heated by such heat;
  - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works which are connected with pipes provided by the authority in pursuance of the preceding paragraph.

*Status:* Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Local Government (Scotland) Act 1973 is up to date with all changes known to be in force on or before 19 January 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)

- (5) Parts I and II of Schedule 3 to the <sup>M59</sup>Water (Scotland) Act 1980 (which relate to the breaking open of roads and the laying of communication and supply pipes etc.) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—
- <sup>F324</sup>(a) . . . . .
- (b) for the reference to the special Act in paragraph 2(3) of that Schedule there were substituted a reference to this subsection; [<sup>F325</sup>and
- (c) for any reference to a water authority there were substituted a reference to the local authority in question, whether acting alone or jointly with some other person.]
- (6) It shall be the duty of a local authority by whom an installation for producing heat is operated in pursuance of this section in any financial year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at the installation as are prescribed.
- (7) In this section “associated works” in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as are prescribed.
- (8) Nothing in this section (except the restrictions imposed by subsection (3)) shall be construed as prejudicing any power exercisable by a local authority apart from this section.
- (9) Regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F323** Words in s. 170A(3) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s.

162(1), **Sch. 15 para. 13**; S.I. 1991/1042, **art. 2**

**F324** S. 170A(5)(a) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(54)(a), **Sch. 14**; S.I.

1996/323, art. 4(1)(c)(d), **Sch. 2**

**F325** S. 170A(5)(c) and preceding word substituted (1.4.1996) for s. 170A(5)(c)(d) by 1994 c. 39, s. 180(1),

**Sch. 13 para. 92(54)(b)**; S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M59** 1980 c. 45 ((130)).

### 170B Provisions supplementary to s. 170A.

- (1) A local authority who supply or propose to supply heat, hot air, hot water or steam in pursuance of the preceding section may make byelaws—
- (a) with respect to the works and apparatus to be provided or used by persons other than the authority in connection with the supply;
- (b) for preventing waste and unauthorised use of the supply and unauthorised interference with works and apparatus used by the authority or any other person in connection with the supply;

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- (c) providing for any specified contravention of the byelaws to be an offence punishable on summary conviction with a fine of such an amount, not exceeding level 3 on the standard scale, as is specified in the byelaws.
- (2) Subsections (1) to (7) of section 38 of the <sup>M60</sup>Water (Scotland) Act 1980 (which relates to the entry of premises by authorised officers of water authorities <sup>F326</sup> . . .) shall have effect for the purpose of authorising the entry of premises by authorised officers of a local authority who provide or propose to provide such a supply as is mentioned in the preceding subsection as if for any reference to [<sup>F327</sup>a water authority] there were substituted a reference to the local authority and as if in subsection (1) of that section—
- (a) for paragraph (a) there were substituted the following paragraph—
- “(a) for the purpose of installing, examining, adjusting, removing or reading any meter used or to be used by the local authority for measuring the heat, hot air, hot water or steam supplied or to be supplied by that authority;”;
- (b) for the words from “this Act” onwards in paragraph (b) there were substituted the words “ byelaws in force by virtue of section 170B of the <sup>M61</sup>Local Government (Scotland) Act 1973 ”; and
- (c) for the words “this Act” in paragraphs (c) and (d) there were substituted the words “ section 170A of that Act ”.
- (3) Regulations may repeal or alter subsection (1) of this section or any provision of byelaws in force by virtue of that subsection and may make any modification of the preceding subsection which the Secretary of State considers is appropriate in consequence of the repeal or alteration.
- (4) An instrument containing regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Section 80 of the Health and Safety at Work etc. Act 1974 (which among other things provides that regulations under subsection (1) of that section may repeal or modify any provision to which that subsection applies if it appears to the authority making the regulations that it is expedient to do so in consequence of any provision made by or under Part I of that Act) shall have effect as if the provisions to which subsection (1) of that section applies included subsection (1) of this section and byelaws in force by virtue of subsection (1) of this section.
- (6) The accounts of a local authority by whom expenditure is incurred under any of the provisions of the preceding section and this section shall include a separate account of that expenditure and of any income connected with functions conferred on the authority by those provisions.

#### Textual Amendments

**F326** Words in s. 170B(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(55)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F327** Words in s. 170B(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(55)(b)**; S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M60** 1980 c. 45 (130).

**M61** 1973 c. 65 (81:2).

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## 171 Miscellaneous functions, etc.

<sup>F328</sup>(1) .....

<sup>F328</sup>(2) .....

<sup>F329</sup>(3) .....

### Textual Amendments

**F328** S. 171(1)(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(56), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

**F329** S. 171(3) repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. XII**

## [<sup>F330</sup>PART XVIII

### ECONOMIC DEVELOPMENT]

### Textual Amendments

**F330** Pt. XVIII (ss. 171A-171C) inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 39, s. 171; S.I. 1995/2866, arts. 2(f), 3(a)

## <sup>F331</sup>171A Functions to include promotion of economic development.

- (1) Subject to section 171B of this Act, the functions of a local authority shall include the taking of such steps as they may from time to time consider appropriate for promoting the economic development of their area.
- (2) Subject to the said section 171B, and without prejudice to any other provision made by or under this Act, those steps may include participation in and the encouragement of, and provision of financial and other assistance for—
  - (a) the setting up or expansion of any commercial, industrial or public undertaking—
    - (i) which is to be or is situated in the authority's area; or
    - (ii) the setting up or expansion of which appears likely to increase the opportunities for employment of persons living in that area; and
  - (b) the creation or protection of opportunities for employment with any such undertaking or with any commercial, industrial or public undertaking, opportunities for employment with which have been or appear likely to be made available to persons living in that area.
- (3) For the purposes of this section, the cases in which a local authority shall be treated as providing financial assistance to any person shall include the cases where they do or agree to do any of the following, that is to say—
  - (a) make a grant to that person;
  - (b) make a loan to that person or provide him with any further form of credit;
  - (c) guarantee the performance of any of that person's obligations;
  - (d) indemnify that person in respect of any liability, loss or damage;

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- (e) invest in that person's undertaking, in the case of a body corporate, by acquiring share or loan capital in that body or otherwise;
  - (f) provide that person with any property, services or other financial benefit (including the remission in whole or in part of any liability or obligation) for no consideration or for a consideration which is less than the best that could reasonably be obtained;
  - (g) join with any other person in doing anything falling within paragraphs (a) to (f) above.
- (4) The power conferred on a local authority under subsection (1) above includes power for such authority to engage in activities outside their area for the purpose of promoting the economic development of their area.
- (5) Where, in any financial year, a local authority propose to engage in activities such as are mentioned in subsection (4) above outside the United Kingdom, they shall, before the beginning of that financial year—
- (a) prepare a document setting out their proposals for engagement in such activities; and
  - (b) submit that document to the Secretary of State for approval.
- (6) Where the Secretary of State approves the proposals set out in any document submitted under subsection (5) above, he may make his approval subject to such conditions as he considers necessary or expedient.
- (7) At any time during the financial year to which a document such as is mentioned in subsection (5) above relates—
- (a) a local authority may submit to the Secretary of State amendments of the proposals contained in that document; and
  - (b) subsection (6) above shall apply in relation to those amendments as it applies in relation to proposals submitted in pursuance of subsection (5) above.
- (8) The exercise by a local authority of any of their powers under this section shall be subject to the provisions of section 90 of this Act.

#### Textual Amendments

**F331** Pt. XVIII A (ss. 171A-171C) inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 39, s. 171; S.I. 1995/2866, arts. 2(f), 3(a)

#### <sup>F332</sup>**171B Restrictions on promotion of economic development.**

- (1) The powers of a local authority by virtue of section 171A above, and their powers by virtue of any of the other provisions of this or any other enactment, shall not include power, for the promotion of the economic development of their area, to take any such steps as may be specified or described for the purposes of this section in regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) above, the Secretary of State may by regulations impose such conditions (including conditions requiring consultation by the local authority of such persons as may be prescribed), and such other restrictions, as may be specified in or determined under the regulations on the exercise, for the purpose of promoting the economic development of their area, of any power of a local authority by virtue of the said section 171A or any other enactment.

**Status:** Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

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- (3) The Secretary of State may by order impose such a financial limit as may be specified in or determined under the order on expenditure which—
- (a) is, or is of a description, so specified or determined; and
  - (b) is, by virtue of section 171A above or a provision of this or any other enactment, incurred in any financial year for the purpose of promoting the economic development of their area by a local authority so specified or determined.
- (4) A statutory instrument containing regulations under subsection (1) or (2) above or an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under subsection (1) or (2) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

#### Textual Amendments

**F332** Pt. XVIII A (ss. 171A-171C) inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 39, s. 171; S.I. 1995/2866, arts. 2(f), 3(a)

#### <sup>F333</sup> 171C Exercise of certain powers to be subject to provisions of sections 171A and 171B.

The exercise by a local authority of any power which they have—

- (a) under section 7 of the <sup>M62</sup>Local Government (Development and Finance) (Scotland) Act 1964 (power to make advances for erection of buildings);
- <sup>F334</sup>(b) .....
- (c) under section 70, 74 or 78 of this Act,

is subject to the provisions of sections 171A and 171B of this Act.

#### Textual Amendments

**F333** Pt. XVIII A (ss. 171A-171C) inserted (30.10.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 39, s. 171; S.I. 1995/2866, arts. 2(f), 3(a)

**F334** S. 171C(b) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)

#### Marginal Citations

**M62** 1964 c. 67.

*Status:* Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

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**PART IX**

**PLANNING**

*Planning authorities and plans*

**172 Planning authorities.**

(1) The planning authority for the purposes of the Act of 1972 and this Part of this Act shall be—

- (a) in the case of regional planning functions, a general planning authority or a regional planning authority; and
- (b) in the case of district planning functions, a general planning authority or a district planning authority,

and the district of the planning authority shall be the region, islands area or the district, as the case may be.

(2) In the term “local planning authority”, wherever it occurs in any enactment or instrument made under an enactment, the word “local” shall be omitted.

(3) In any enactment or instrument made under an enactment, a reference to a planning authority shall, unless otherwise provided, [<sup>F335</sup>or unless the context otherwise requires] be construed as a reference to a general planning authority and to a district planning authority.

(4) In this Part of this Act—

“the <sup>M63</sup>Act of 1972” means the Town and Country Planning (Scotland) Act 1972;

“regional planning functions” are those described in Part I of Schedule 22 to this Act together with those conferred on general or regional planning authorities by this Part of this Act;

“district planning functions” are those described as such in Part II of that Schedule or in this Part of this Act, together with those conferred on general or district planning authorities by this Part of this Act;

“general planning authority” means the council of the Highland region, the Borders region or the Dumfries and Galloway region or of an islands area;

“regional planning authority” means the council of any other region;

“district planning authority” means a district council within the region of a regional planning authority.

**Textual Amendments**

**F335** Words inserted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 3 para. 22](#)

**Marginal Citations**

**M63** 1972 c. 52.

<sup>F336</sup> 173 .....

*Status:* Point in time view as at 01/07/1997. This version of this Act contains provisions that are not valid for this point in time.

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**Textual Amendments**

**F336** S. 173 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

<sup>F337</sup>**174** .....

**Textual Amendments**

**F337** S. 174 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

<sup>F338</sup>**175** .....

**Textual Amendments**

**F338** S. 175 repealed (27.5.1997) by 1997 c. 11, ss. 3(1), 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)

<sup>F339</sup>**176** .....

**Textual Amendments**

**F339** S. 176 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

<sup>F340</sup>**177** .....

**Textual Amendments**

**F340** S. 177 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

**178** ..... <sup>F341</sup>

**Textual Amendments**

**F341** S. 178 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), **Sch. 4 Pt. I**

*Development control*

<sup>F342</sup>**179** .....



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**Textual Amendments**

**F342** S. 179 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

**180** ..... **F343**

**Textual Amendments**

**F343** S. 180 repealed by Town and Country Planning (Scotland) Act 1977 (c. 10), **s. 5(8)**

**F344** **181** .....

**Textual Amendments**

**F344** S. 181 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

*Miscellaneous*

**F345** **182** .....

**Textual Amendments**

**F345** S. 182 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

**F346** **183** .....

**Textual Amendments**

**F346** S. 183 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)**

**184 Amendment of enactments relating to planning etc**

The enactments mentioned in Schedule 23 to this Act being enactments relating to planning, new towns and kindred matters, shall have effect subject to the amendments set out in that Schedule.

**Modifications etc. (not altering text)**

**C130** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)–(9), 147(2)(6)(7)(8), 155(2)(3)(5)(6) (7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2–12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## PART X

### LICENSING, ETC.

185, .....<sup>F347</sup>  
186.

#### Textual Amendments

**F347** Ss. 185, 186 repealed by Licensing (Scotland) Act 1976 (c. 66), **Sch. 8**

#### *Betting, Gaming and Lotteries*

### 187 Authorities for purposes of betting, gaming and lotteries, etc.

The provisions of the <sup>M64</sup>Betting, Gaming and Lotteries Act 1963 and of the <sup>M65</sup>Gaming Act 1968 relating to the authorities for the purposes of permits, licences and registration under those Acts shall have effect subject to the modifications and amendments set out in Part II of Schedule 24 to this Act.

#### Marginal Citations

**M64** 1963 c. 2.

**M65** 1968 c. 65.

#### *Miscellaneous licensing, registration and related matters*

### [<sup>F348</sup>188 Part III of Schedule 24 to continue to have effect.

Part III of Schedule 24 to this Act (miscellaneous licensing, registration and related matters) shall continue to have effect.]

#### Textual Amendments

**F348** S. 188 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(58)**; S.I. 1996/323, **art. 4(1)(b)(c)**

## PART XI

### GENERAL PROVISIONS AS TO LOCAL AUTHORITIES

#### *Legal Proceedings, Notices, etc.*

### 189 Legal proceedings.

(1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area or any part thereof, they may institute, defend

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or appear in any legal proceedings or represent the inhabitants at any local inquiry held by or on behalf of any Minister or public body under any enactment.

- (2) Any member or officer of a local authority, who is authorised in that behalf by the authority, shall be entitled to institute, defend or appear in proceedings before a court of summary jurisdiction although he is not a practising solicitor.

**Modifications etc. (not altering text)**

**C131** S. 189 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**C132** S. 189 applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), Sch. 1 para. 13(1); S.S.I. 2005/454, art. 2, Sch. 2

**190 Service of legal proceedings, notices, etc., on local authorities.**

Any legal proceedings against a local authority shall be deemed to have been duly served on the authority if served on the proper officer of the authority, and any notice, order or other document required or authorised by any enactment or any instrument made under an enactment to be sent, delivered or served to or upon a local authority or to or upon the proper officer or [<sup>F349</sup>convener] of a local authority, shall be addressed to the local authority or to the proper officer or [<sup>F349</sup>convener] as the case may be, and left at, or sent by post in a prepaid letter to, the offices of the local authority.

**Textual Amendments**

**F349** Words in s. 190 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(59); S.I. 1996/323, art. 4(1)(b)(c)

**Modifications etc. (not altering text)**

**C133** S. 190 applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), Sch. 1 para. 13(1); S.S.I. 2005/454, art. 2, Sch. 2

**191 Claims in sequestrations and liquidations.**

The proper officer of a local authority or any other officer authorised by the authority for the purpose may sign on behalf of the authority any claim in any sequestration, liquidation or other such proceedings in which the authority are entitled to make a claim, and may act on behalf of the authority in connection with that claim in all respects.

**Modifications etc. (not altering text)**

**C134** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**C135** S. 191 applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), Sch. 1 para. 13(1); S.S.I. 2005/454, art. 2, Sch. 2

**192 Service of notices, etc., by local authority.**

- (1) Any documents to which this section applies may be served—

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- (a) by being sent by post in a prepaid letter or delivered to or at the residence or place of business of the person to whom it is addressed:

Provided that in the case of a person employed on any ship or vessel it shall be delivered to some person on board thereof and connected therewith; or

- (b) in the case of an incorporated company or body by being sent by post in a prepaid letter addressed to the secretary or clerk of the company or body at their registered or principal office or by delivering it to him at that office; or
- (c) where the notice or other document relates to premises and the owner thereof resides beyond the area of the local authority, by being sent by post in a prepaid letter or delivered to or at the place of business of his known factor or agent or the person drawing the rents of the premises; or
- (d) where the notice or other document relates to premises and the local authority are unable after reasonable inquiry to ascertain the address of the person upon whom it should be served, by addressing it to him—
  - (i) by name, if his name is known; or
  - (ii) if his name is not known, by the description of “owner” or “occupier” of the premises (naming them) to which it relates;

and by delivering it to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

- (2) Service of a copy of a document to which this section applies shall be deemed to be service of the principal document.
- (3) Service of any document to which this section applies may be proved by a certificate under the hand of the person who posted or delivered or affixed the same attested by one witness who was present at such posting, delivery or affixing.
- (4) Where any document to which this section applies relates to premises and the local authority are unable after reasonable inquiry to ascertain the name and address of the owner of the premises, then if there is no known factor, agent or person drawing the rents, such document may be addressed to the occupier or any of the occupiers of the premises, and such occupier shall in all respects take burden for the owner, so however that he shall not be liable to make payment under this section of any sum in excess of the sum which he is liable to pay in respect of rent of the premises nor shall he be required to make payment of any sum before the sum in respect of rent is due and payable, and any sum so paid by the occupier shall be deemed to be a payment to account of rent.
- (5) For the purpose of enabling any document to be served on the owner of any premises, the local authority may by notice in writing require the occupier of the premises to state the name and address of the owner thereof, and if the occupier refuses or wilfully neglects to do so, or wilfully mis-states the name and address of the owner, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be liable on summary conviction in respect of each offence to a fine not exceeding [<sup>F350</sup>level 1 on the standard scale].
- (6) This section applies to any notice, order or other document which is required or authorised by an enactment (including any enactment in this Act) or any instrument made under an enactment to be served by or on behalf of a local authority, or by an officer of a local authority, not being a document to the service of which the provisions of some enactment other than this section or some instrument made under an enactment are applicable.

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### Textual Amendments

**F350** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), **ss. 289F**, 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), **s. 54**)

### Modifications etc. (not altering text)

**C136** [S. 192](#) extended by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **s. 137**  
[S. 192](#) extended (with modifications) (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), **s. 83(1)**, **Sch. 6 para. 3**

**C137** [S. 192](#) applied (19.12.1991) by [City of Edinburgh District Council Order Confirmation Act 1991 \(c. xix\)](#), **s. 1**, **Sch. Pt. XII**, **s. 47**  
[Ss. 191-199](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), **art. 2**, **Sch. para. 3**  
[S. 192](#) applied (1.4.2002) by [Water \(Scotland\) Act 1980 \(c. 45\)](#), **s. 23(1ZA)** (as inserted by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), **ss. 71(1)**, **72**, **Sch. 6 para. 18(3)** (with **s. 67**); [S.S.I. 2002/118](#), **art. 2(3)**)

[S. 192](#) applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 4**, **54(2)**, **Sch. 1 para. 13(1)**; [S.S.I. 2005/454](#), **art. 2**, **Sch. 2**

**C138** [S. 192\(1\)-\(4\)](#) applied (with modifications) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), **ss. 37(2)**, **59**; [S.S.I. 2004/404](#), **art. 2(1)** (with **arts. 3**, **4**)

## 193 Authentication of documents.

- (1) Any notice, order or other document which a local authority are authorised or required by or under any enactment (including any enactment in this Act) to give, make or issue may be signed on behalf of the authority by the proper officer of the authority, and may be withdrawn by a notice similarly authenticated.
- (2) Any document purporting to bear the signature of the proper officer of the authority shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the local authority.

In this subsection the word “signature” includes a facsimile of a signature by whatever process reproduced.

- (3) Where any enactment or instrument made under an enactment makes, in relation to any document or class of documents, provision with respect to the matters dealt with by one of the two foregoing subsections, that subsection shall not apply in relation to that document or class of documents.

### Modifications etc. (not altering text)

**C139** [S. 193](#) applied (19. 12. 1991) by [City of Edinburgh District Council Order Confirmation Act 1991 \(c. xix\)](#), **s. 1**, **Sch. Pt. XII**, **s.47**

[Ss. 191-199](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), **art. 2**, **Sch. para. 3**

**C140** [S. 193](#) applied (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 4**, **54(2)**, **Sch. 1 para. 13(1)**; [S.S.I. 2005/454](#), **art. 2**, **Sch. 2**

## <sup>F351</sup>194 Execution of deeds by local authority and use of seal.

- (1) .....
- (1A) .....

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(1B) .....

- (2) The seal of a council may be affixed to a deed or other document if authority to affix the seal to the deed or other document has been given at a meeting of the council, or has been given otherwise in accordance with standing orders of the council:

Provided that a person entering into any transaction with any such council shall not be bound to inquire whether authority to affix the seal has been given in accordance with the provisions of this subsection, and all deeds executed by such a council if otherwise valid shall have full force and effect notwithstanding that such authority may not have been given.

**Textual Amendments**

**F351** S. 194 (except s. 194(2)) repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))

**Modifications etc. (not altering text)**

**C141** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**195 Public notices.**

Save as otherwise expressly provided, a public notice required to be given by a local authority shall be given—

- (a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and
- (b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and
- (c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.

**Modifications etc. (not altering text)**

**C142** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

S. 195 applied (with modifications) (1.4.1996) by S.I. 1995/3026, **arts. 1(2), 14**

**C143** S. 195 applied (10.10.2005) by **Transport (Scotland) Act 2005 (asp 12)**, ss. 4, 54(2), **Sch. 1 para. 13(1)**; S.S.I. 2005/454, **art. 2, Sch. 2**

**196 Misnomers, etc., not to affect validity of notices, etc.**

No misnomer or inaccurate description of any person or place, omission, mistake or informality in any notice or other document under or for the purposes of this Act shall affect the full operation of the notice or other document if the person or place mentioned is so designated as to be commonly understood, and such omission, mistake or informality is not such as to defeat the object of the notice or other document or cause substantial injustice to any person affected thereby.

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**Modifications etc. (not altering text)**

- C144** S. 196 applied (19. 12. 1991) by [City of Edinburgh District Council Order Confirmation Act 1991](#) (c. xix), s. 1, **Sch. Pt. XII**, s.47  
Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3**

**197 Inspection and deposit of documents.**

<sup>F352</sup>(1) . . . . .

- (2) In any case in which a document of any description is deposited with the proper officer of a local authority, pursuant to the standing orders of either House of Parliament or to any enactment or instrument, the proper officer shall receive and retain the document in the manner and for the purposes directed by the standing orders or enactment or instrument, and shall make such notes or endorsements on, and give such acknowledgements and receipts in respect of, the document as may be so directed.
- (3) Subject to any provisions to the contrary in any other enactment or instrument, a person interested in any such map, plan or other document as is mentioned in subsection (2) above, may, at all reasonable hours, inspect and make copies thereof or abstracts therefrom on payment to the person having custody thereof of a fee not exceeding 10p for every such inspection, and of a further fee not exceeding 10p for every hour during which such inspection continues after the first hour.
- (4) If a person having the custody of any such document—
- (a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract,
  - (b) refuses to give copies or extracts to any person entitled to obtain copies or extracts,
- he shall be liable on summary conviction to a fine not exceeding [<sup>F353</sup>level 1 on the standard scale].
- (5) A local authority may remit any fee chargeable under this section.

**Textual Amendments**

- F352** S. 197(1) repealed by [Local Government \(Access to Information\) Act 1985](#) (c. 43, SIF 81:1, 2), s. 3, **Sch. 3**
- F353** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21), **ss. 289F**, 289G (as inserted by [Criminal Justice Act 1982](#) (c. 48), s. 54)

**Modifications etc. (not altering text)**

- C145** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, **Sch. para. 3**
- C146** S. 197 applied (10.10.2005) by [Transport \(Scotland\) Act 2005](#) (asp 12), ss. 4, 54(2), **Sch. 1 para. 13(1)**; [S.S.I. 2005/454](#), art. 2, Sch. 2

**198 Photographic copies of documents.**

- (1) Subject to subsection (3) below, any requirement imposed by any enactment that a local authority shall keep a document of any description shall be satisfied by their keeping a photographic copy of the document.

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- (2) Subject to subsection (3) below, any requirement imposed by any enactment that a document of any description in the custody or under the control of a local authority shall be made available for inspection shall be satisfied by their making available for inspection a photographic copy of the document.
- (3) A photographic copy of a document in colour where the colours are relevant to the interpretation of the document shall not suffice for the purposes of this section unless it so distinguishes between the colours as to enable the document to be interpreted.

**Modifications etc. (not altering text)**

**C147** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**C148** S. 198 applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), **Sch. 1 para. 13(1)**; S.S.I. 2005/454, **art. 2**, Sch. 2

**199 Reports and returns.**

Every local authority and every joint committee or joint board shall, within such period as the appropriate Minister may require, make to that Minister such reports and returns and give him such information with respect to their functions as the Minister may require, or as may be required by either House of Parliament.

**Modifications etc. (not altering text)**

**C149** Ss. 191-199 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

**C150** S. 199 applied (10.10.2005) by Transport (Scotland) Act 2005 (asp 12), ss. 4, 54(2), **Sch. 1 para. 13(1)**; S.S.I. 2005/454, **art. 2**, Sch. 2

<sup>F354</sup>**200** .....

**Textual Amendments**

**F354** S. 200 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3(xiii)**

*Byelaws*

<sup>F355</sup>**201 Byelaws for good rule and government.**

- (1) A local authority may make byelaws for the good rule and government of the whole or any part of the [<sup>F356</sup>their area], and for the prevention and suppression of nuisances therein.
- (2) The confirming authority in relation to byelaws made under this section shall be the Secretary of State.
- (3) Byelaws shall not be made under this section for any purpose as respects any area if provision for that purpose as respects that area is made by, or is or may be made under, any other enactment.



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### Textual Amendments

**F355** S. 201 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para. 15** (with ss. 42, 46)

**F356** Words in s. 201(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(61)**; S.I. 1996/323, **art. 4(1)(b)(c)**

### Modifications etc. (not altering text)

**C151** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

**C152** S. 201(1) extended by **Civic Government (Scotland) Act 1982 (c. 45), s. 112(3)**

**C153** S. 201(3) excluded by **Civic Government (Scotland) Act 1982 (c. 45), s. 112(3)**

## 202 Procedure, etc., for byelaws.

- (1) <sup>F357</sup> . . . The following provisions of this section shall apply to byelaws to be made by a local authority—
- (a) under this Act,
  - (b) under any other enactment whenever passed, and whether local or otherwise, conferring on a local authority a power to make byelaws, or
  - (c) under any enactment which incorporates or applies any of the following enactments—
    - (i) section 57 of the <sup>M66</sup>Local Government (Scotland) Act 1889;
    - <sup>F358</sup> (ii) the <sup>M67</sup>Civic Government (Scotland) Act 1982;]
    - (iii) sections 183 to 187 of the <sup>M68</sup>Public Health (Scotland) Act 1897;
    - (iv) sections 301 to 303 of the 1947 Act.

<sup>F359</sup>(1A) . . . . .

- (2) Unless the enactment under which the byelaws are made specifically provides otherwise, any such byelaws may apply only to a part of the area of a local authority, and different byelaws may apply to different parts of the area.
- (3) The byelaws shall be authenticated by being sealed with the common seal of the local authority and signed by the proper officer of the authority, and shall not have effect until they are confirmed by the confirming authority.
- (4) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation, of the place where a copy of the byelaws may be inspected and of the authority to whom objections may be notified shall be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.
- (5) For at least one month before application for confirmation is made, a copy of the byelaws shall be deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment.
- (6) The local authority by whom the byelaws are made shall on application furnish to any person a copy of the byelaws or of any part thereof on payment of such sum, not exceeding 10p for every hundred words contained in the copy, as the authority may determine.

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- (7) Any person aggrieved by any byelaws may, within one month after notice has been published in accordance with the provisions of subsection (4) above, notify in writing his objection and the ground of his objection to the confirming authority.
- (8) Before confirming byelaws, the confirming authority shall take into consideration any objections received by them and may, if they consider it necessary or desirable, hold a local inquiry or cause a local inquiry to be held.
- (9) Unless the Secretary of State shall otherwise direct, every inquiry with respect to byelaws made under any provision of this Act or of the [F360M69Civic Government (Scotland) Act 1982] shall be held by the sheriff.
- (10) The confirming authority may confirm with or without modification or refuse to confirm any byelaws submitted under this section for confirmation and may fix the date on which the byelaws are to come into operation, and if no date is so fixed the byelaws shall come into operation at the expiration of one month from the date of their confirmation.
- (11) The local authority shall, as soon as practicable after receiving intimation of the confirmation of the byelaws by the confirming authority, cause a notice of such confirmation, of the date on which the byelaws are to come into operation, and of the place where a copy of the byelaws as confirmed may be inspected, to be given in a newspaper circulating in the area to which the byelaws are to apply or in such other manner as the confirming authority on the application of the local authority may determine to be sufficient in the circumstances.
- (12) A copy of the byelaws when confirmed shall be printed and deposited at the offices of the local authority by whom the byelaws are made and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall on application be furnished to any person on payment of such sum not exceeding 20p for every copy as the authority may determine.

F361(13) . . . . .

- (14) The provisions of this section shall apply, subject to any necessary modifications, in the case of byelaws made by any authority other than a local authority under any enactment passed before the coming into force of this Act and incorporating or applying any of the enactments set out in subsection (1)(c) above.
- (15) In this section “the confirming authority” means the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed, or if no authority or person is so specified, means the Secretary of State:

Provided that, notwithstanding that a local Act specifies otherwise, the confirming authority in relation to byelaws made under any local Act shall be the Secretary of State.

**Textual Amendments**

**F357** Words in s. 202(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

**F358** S. 202(1)(c)(ii) substituted by Civic Government (Scotland) Act 1982 (c. 45), s. 110(1)(2)(a)

**F359** S. 202(1A) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

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**F360** Words substituted by Civic Government (Scotland) Act 1982 (c. 45), s. 110(1)(2)(b)

**F361** S. 202(13) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(62), Sch. 14: S.I. 1996/323, art. 4(1)(b)(c)(d), Sch. 2

#### Modifications etc. (not altering text)

**C154** S. 202 modified by S.I. 1984/918, reg. 2

**C155** Ss. 202–204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, Sch. 2 para. 9(3) (with s. 32); S.S.I. 2000/312, art. 2

Ss. 202–204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), ss. 12(4)–(8), 100(3)(4); S.S.I. 2005/17, art. 2

**C156** S. 202 applied (with modifications) (9.5.1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, Sch. Pt. VII, s. 58(2)

Ss. 201–204 applied (30.10.1994) by S.I. 1994/2716, reg. 94

S. 202 applied (with modifications) (1.4.1996) by 1995 c. 25, s. 29 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

**C157** S. 202(4)(5)(6)(7)(8)(10)(12) applied (with modifications) (18.11.1990) by S.I. 1991/43, art. 8(1)(2).

S. 202(4)–(8)(10)(12) applied (with modifications) (25.2.1991) by S.I. 1991/1082, art. 9(1)(2).

S. 202(4)–(8)(10)(12) applied (with modifications) (5.11.1991) by S.I. 1991/2513, art. 15(1)(2).

S. 202(4)–(8)(10)(12) applied (with modifications) (9.7.1992) by S.I. 1992/1975, art. 8.

S. 202(4)–(8)(10)–(12) applied (with modifications) (16.7.1992) by Peterhead Harbours Order Confirmation Act 1992 (c. xii), s. 42(3).

S. 202(4)–(8)(10)(12) applied (with modifications) (8.2.1993) by S.I. 1993/321, art. 10(1)

S. 202(4)–(8)(10)(12) applied (with modifications) (23.12.1999) by S.S.I. 1999/199, art. 19(1)(2)

S. 202(4)–(8)(10)(12) applied (with modifications) (23.12.1999) by S.S.I. 1999/202, art. 19(1)(2)

**C158** S. 202(4)–(8)(10)(12) applied (15.6.2005) by The Caledonian MacBrayne Limited (Kennacraig) Harbour Empowerment Order 2005 (S.I. 2005/353), art. 22(1)

#### Marginal Citations

**M66** 1889 c. 50.

**M67** 1982 c. 45.

**M68** 1897 c. 38.

**M69** 1982 c. 45.

#### [<sup>F362</sup>202A Review of byelaws.

A local authority shall, not later than 10 years from whichever is the later of the following times—

- (a) the coming into force of a byelaw which they have the power to revoke or amend;
- (b) the coming into force of this section;

review that byelaw and do so thereafter at intervals of not more than 10 years.]

#### Textual Amendments

**F362** Ss. 202A—202C inserted (1.7.1984) by Civic Government (Scotland) Act 1982 (c. 45), ss. 110(3), 137(2)

#### Modifications etc. (not altering text)

**C159** Ss. 202–204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, Sch. 2 para. 9(3) (with s. 32); S.S.I. 2000/312 art. 2

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Ss. 202-204 applied (with modifications) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), [ss. 12\(4\)-\(8\)](#), [100\(3\)\(4\)](#); S.S.I. 2005/17, [art. 2](#)

**C160** Ss. 202A, 202B, 202C modified by S.I. 1984/918, [reg. 2](#)

**C161** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, [reg. 94](#)

## **202B Register of byelaws.**

- (1) A local authority shall, in accordance with this section, keep a register of all byelaws which they have power to revoke or amend.
- (2) The register kept under subsection (1) above shall contain—
  - (a) a description of the byelaws, including a description of any offences created and penalties imposed by the byelaws;
  - (b) the date or dates when the byelaws and any amendments to them were confirmed;
  - (c) the date or dates when the byelaws and any amendments to them came or come into operation; and
  - (d) the date when the byelaws and any amendments to them were last reviewed under section 202A of this Act.
- (3) The register kept under subsection (1) above shall at such reasonable times and places as the local authority may determine be open to public inspection and any member of the public may make a copy of or extract from anything in it.
- (4) No payment shall be charged or taken by the local authority for any inspection or the making of any copy or extract under subsection (3) above.
- (5) The local authority may, on payment of such reasonable fee as they may determine, issue a certified true copy of an entry in the register; and any document purporting to be certified by the proper officer of the local authority as a true copy of an entry shall be sufficient evidence of the terms of the original entry.

### **Modifications etc. (not altering text)**

**C162** Ss. 202A, 202B, 202C modified by S.I. 1984/918, [reg. 2](#)

**C163** Ss. 202-204 applied (with modifications) (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 2 para. 9\(3\)](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

Ss. 202-204 applied (with modifications) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), [ss. 12\(4\)-\(8\)](#), [100\(3\)\(4\)](#); S.S.I. 2005/17, [art. 2](#)

**C164** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, [reg. 94](#)

## **202C Revocation of byelaws by resolution.**

- (1) Byelaws may be revoked in accordance with this section by resolution of the local authority having power (apart from this section) to revoke them.
- (2) At least one month before the revocation under this section of any byelaws, notice of the proposed resolution revoking them shall be given in a newspaper circulating in the area to which the byelaws apply.

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- (3) The local authority shall not decide the question whether or not to revoke byelaws under this section without taking into account any objections made to them in response to the notice given by them under subsection (2) above.
- (4) Byelaws revoked under this section shall cease to have effect on the date of their revocation or on such later date as may be specified in the resolution revoking them.
- (5) It shall not be competent under this section to revoke, separately from the set of byelaws or byelaw containing it any byelaw or, as the case may be, any part of a byelaw which was inserted into the set of byelaws or, as the case may be, the byelaw by, or otherwise wholly or substantially derives from, a modification made by the confirming authority on the making or any amendment of the set of byelaws or, as the case may be, the byelaw.
- (6) It shall not be competent under this section to revoke any byelaw or any part of any byelaw if the effect of the revocation would be to widen the scope of any other byelaw or, as the case may be, the remaining part of the byelaw.

#### Modifications etc. (not altering text)

**C165** Ss. 202A, 202B, 202C modified by S.I. 1984/918, **reg. 2**

**C166** Ss. 202-204 applied (with modifications) (8.9.2000) by 2000 asp 10, s. 9, **Sch. 2, para. 9(3)** (with s. 32); S.S.I. 2000/312, **art. 2**

Ss. 202-204 applied (with modifications) (9.2.2005) by Land Reform (Scotland) Act 2003 (asp 2), **ss. 12(4)-(8), 100(3)(4)**; S.S.I. 2005/17, **art. 2**

**C167** Ss. 201-204 applied (30.10.1994) by S.I. 1994/2716, **reg. 94**

S. 202C applied (with modifications) (1.4.1996) by 1995 c. 25, **s. 29** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**

## 203 Offences against byelaws.

Byelaws made by a local authority, and for which specific provision is not otherwise made, may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding such sum as may be fixed by the enactment conferring the power to make the byelaws, or, if no sum is so fixed, the sum of [<sup>F363</sup>level 2 on the standard scale], and in the case of a continuing offence a further fine not exceeding such sum as may be fixed as aforesaid, or, if no sum is so fixed, the sum of £5 for each day during which the offence continues after conviction thereof.

#### Textual Amendments

**F363** “level 2 on the standard scale” substituted for “£20”, except in relation to s. 203 as applied to byelaws made under any provision contained in a local or private Act other than by a local authority, by Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 289C(2)(3)** (as inserted by Criminal Law Act 1977 (c. 45), **Sch. 11 para. 5**) and by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48), **s. 54**) and by 1995 c. 40, ss. 3(1), 7(2), **Sch. 1 paras. 3(2), 12(2)** it is provided that s. 203 shall have effect as if for any reference to £20 there shall be substituted a reference to £50 except as applied to byelaws made under any provision contained in a local or private Act other than by a local authority

#### Modifications etc. (not altering text)

**C168** S. 203 excluded by Civil Aviation Act 1982 (c. 16), **s. 32(4)**

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- C169** S. 203 excluded by [Airports Act 1986 \(c. 31, SIF 9\), s. 63\(8\)](#)
- C170** Ss. 202-204 applied (with modifications) (8.9.2000) by [2000 asp 10, s. 9, Sch. 2 para. 9\(3\)](#) (with s. 32); [S.S.I. 2000/312 art. 2](#)  
 Ss. 202-204 applied (with modifications) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\), ss. 12\(4\)-\(8\), 100\(3\)\(4\); S.S.I. 2005/17, art. 2](#)
- C171** S. 203 applied (with modifications) (18. 11. 1990) by [S.I. 1991/43, art. 8\(1\)](#).  
 S. 203 applied (with modifications) (25. 02. 1991) by [S.I. 1991/1082, art. 9\(1\)](#).  
 S. 203 applied (with modifications) (05. 11. 1991) by [S.I. 1991/2513, art. 15\(1\)](#).  
 S. 203 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\), s. 1, Sch. Pt. VII, s. 58\(2\)](#)  
 S. 203 applied (with modifications) (9.7.1992) by [S.I. 1992/1975, art.8](#).  
 S. 203 applied (with modifications) (8.2.1993) by [S.I. 1993/321, art. 10\(1\)](#)  
 Ss. 201-204 applied (30.10.1994) by [S.I. 1994/2716, reg. 94](#)  
 S. 203 applied (with modifications) (23.12.1999) by [S.S.I. 1999/199, art. 19\(1\)](#)  
 S. 203 applied (with modifications) (23.12.1999) by [S.S.I. 1999/202, art. 19\(1\)](#)  
 S. 203 applied (15.6.2005) by [The Caledonian MacBrayne Limited \(Kennacraig\) Harbour Empowerment Order 2005 \(S.I. 2005/353\), art. 22\(1\)](#)

## 204 Evidence of byelaws.

The production of a copy of a byelaw purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed by the proper officer of the authority stating—

- (a) that the byelaw was made by the authority;
- (b) that the copy is a true copy of the byelaw;
- (c) that on a specified date the byelaw was confirmed by the authority named in the certificate or, as the case may require, was sent to the Secretary of State and has not been disallowed;
- (d) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall be sufficient evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

### Modifications etc. (not altering text)

- C172** S. 204 modified by [S.I. 1984/918, reg. 2](#)  
 S. 204 applied (with modifications) (16.7.1992) by [Peterhead Harbours Order Confirmation Act 1992 \(c. xii\), s. 42\(3\)](#).
- C173** Ss. 202-204 applied (with modifications) (8.9.2000) by [2000 asp 10, s. 9, Sch. 2 para. 9\(3\)](#) (with s. 32); [S.S.I. 2000/312 art. 2](#)  
 Ss. 202-204 applied (with modifications) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\), ss. 12\(4\)-\(8\), 100\(3\)\(4\); S.S.I. 2005/17, art. 2](#)
- C174** S. 204 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\), s. 1, Sch. Pt. VII, s. 58\(2\)](#)  
 Ss. 201-204 applied (30.10.1994) by [S.I. 1994/2716, reg. 94](#)  
 S. 204 applied (with modifications) (1.4.1996) by [1995 c. 25, s. 29 \(with ss. 7\(6\), 115, 117\); S.I. 1996/186, art. 3](#)

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### Miscellaneous provisions

205 ..... F364

#### Textual Amendments

F364 S. 205 repealed by Reserve Forces Act 1980 (c. 9), Sch. 10 Pt. II

#### 206 Admission of honorary freemen.

- (1) [F365A local authority] may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the [F365authority] the notice of which specifies the proposed admission as an item of business, admit to be honorary freemen of [F366their area] persons of distinction and any persons who have rendered eminent service to [F366their area].
- (2) An officer designated for the purpose by [F367local authority] shall keep a roll containing the names of persons admitted to be freemen under this section.

#### Textual Amendments

- F365 Words in s. 206(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(63)(a)(i)(ii); S.I. 1996/323, art. 4(1)(b)(c)
- F366 Words in s. 206(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(63)(a)(iii); S.I. 1996/323, art. 4(1)(b)(c)
- F367 Words in s. 206(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(63)(b); S.I. 1996/323, art. 4(1)(b)(c)

#### 207 Limitation of rights of freemen.

Nothing in this Part of this Act shall—

- (a) confer any right of membership or any right or interest in the properties, funds, revenues or privileges of any guild or incorporation of crafts; or
- (b) confer any right or interest in any burgess acres or any grazing rights connected therewith, or affect the law or practice existing at the commencement of this Act with reference to the use, enjoyment and administration of any such burgess acres or grazing rights.

#### 208 Provisions as to Sundays etc.

- (1) Where the day or the last day on which anything is required or permitted by or in pursuance of this Act to be done is a Sunday, Christmas Day, New Year's Day, Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act, in reckoning a number of days for the purposes of this Act, the days before specified shall not be excluded.

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- (2) Where under the foregoing provisions of this section an election is postponed, the day on which the election is held shall be treated as the day of election for all purposes of this Act relating to that election:

Provided that where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in this subsection shall affect the validity of any act done in relation to an election before or on the date of the declaration.

**Modifications etc. (not altering text)**

C175 S. 208 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

## PART XII

### MISCELLANEOUS, GENERAL AND TRANSITIONAL

#### *Miscellaneous*

#### **209 Removal or relaxation of controls affecting certain local authority functions.**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in Schedule 25 to this Act shall have effect subject to the amendments set out in that Schedule.
- (2) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (3) An order made under this section may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.
- (4) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.
- (5) In this section “local authority” includes a Passenger Transport Executive.

#### **210 Power to direct inquiries.**

- (1) Where any Minister is authorised by this Act to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, confirmation, sanction or approval to any matter, or otherwise to act under this Act <sup>F368</sup> . . . , or where the Secretary of State is authorised to hold an inquiry, either under this Act or under any other enactment relating to the functions of a local authority, he may cause a local inquiry to be held.



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- (2) Except as otherwise provided in any enactment, the Minister may appoint an officer of his Department or any other person to conduct the inquiry and to report thereon to him.
- (3) The person appointed to hold the inquiry shall cause notice of the time and place of the inquiry to be given to the bodies and persons appearing to him to be interested.
- (4) For the purpose of any such local inquiry, the person appointed to hold the inquiry may by notice in writing require any person to attend, at a time and place stated in the notice, to give evidence or to produce any books or other documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths:

Provided that—

- (a) no person shall be required, in obedience to such a notice, to attend to give evidence or to produce any such books or other documents, unless the necessary expenses of his attendance are paid or tendered to him; and
  - (b) nothing in this subsection shall empower the person holding the inquiry to require any person to produce any book or document or to answer any question which he would be entitled on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) Any person who refuses or wilfully neglects to attend in obedience to a notice under this section to give evidence or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section shall be liable on summary conviction to a fine not exceeding [<sup>F369</sup>level 1 on the standard scale] or to imprisonment for a term not exceeding three months, or to both.
  - (6) The Minister causing the inquiry to be held may, if he thinks fit, pay such expenses of witnesses and such expenses of or concerning the production of any books or other documents as to him seems reasonable, and such expenses shall be deemed to be part of the expenses of the inquiry.

[<sup>F370</sup>(7) The Minister may make orders as to the expenses incurred—

- (a) by the Minister in relation to—
  - (i) the inquiry;
  - (ii) arrangements made for an inquiry which does not take place; and
- (b) by the parties to the inquiry,

and as to the parties by whom any of the expenses mentioned in paragraphs (a) and (b) above shall be paid.

- (7A) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular—
  - (a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and
  - (b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.

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- (7B) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
- (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,
  - (b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry, and
  - (c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
  - (d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.]
- [<sup>F371</sup>(8) Where the Minister has made an order under subsection (7) of this section requiring any party to pay expenses to him he shall certify the amount of the expenses, and any amount so certified shall be a debt due by that party to the Crown and shall be recoverable accordingly.]
- (9) This section shall not apply in the case of a local inquiry held under any enactment where the enactment contains provisions with regard to such inquiries.

#### Textual Amendments

- F368** Words repealed by [Local Government \(Scotland\) Act 1975 \(c. 30\)](#), [Sch. 7](#)
- F369** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [ss. 289F](#), 289G (as inserted by [Criminal Justice Act 1982 \(c. 48\)](#), [s. 54](#))
- F370** S. 210(7)(7A)(7B) substituted for s. 210(7)(8) by [Housing and Planning Act 1986 \(c. 63, SIF 81:2\)](#), [ss. 49, 53](#), [Sch. 11 Pt. II para. 39\(1\)](#)
- F371** S. 210(8) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 81:2\)](#), [ss. 49, 57\(2\)](#), [Sch. 11 Pt. II para. 39\(2\)](#)

#### Modifications etc. (not altering text)

- C176** S. 210 applied (9.5.1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), s. 1, [Sch. Pt. VI](#), s. 45(3), [Pt. VIII s. 70](#)  
S. 210 applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch. para. 3](#)  
S. 210 applied (with modifications) (1.2.2000) by [S.I. 1999/3445](#), [reg. 9\(5\)](#)
- C177** S. 210(2)(4)-(8) applied (with modifications) (2.8.2004) by [The Justification of Practices Involving Ionising Radiation Regulations 2004 \(S.I. 2004/1769\)](#), [reg. 17\(2\)\(b\)](#)
- C178** S. 210(2)-(9) excluded by [Water \(Scotland\) Act 1980 \(c. 45\)](#), [s. 99\(2\)](#)
- C179** S. 210(2)-(8) applied (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 108\)](#), [ss. 160\(4\)\(5\)](#), 161(6), [Sch. 7 para. 4\(3\)](#) (with [ss. 25\(2\)](#), 167(4)(5)); [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#)  
S. 210(2)-(8) applied (1.10.1991) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28\)](#), [ss. 15\(7\)](#), 20(11), [Sch. 5 para. 6](#), [Sch. 8](#), para. 2(7); [S.I. 1991/2187](#), art. 3, [Sch.](#)  
S. 210(2)-(8) applied (27.8.1993) by [1993 c. 11](#), [ss. 59\(3\)](#), 68(2)  
S. 210(2)-(8) applied (27.8.1993) by [1993 c. 12](#), [ss. 24\(3\)\(b\)](#), 51(2) (with [ss. 42](#), 46)  
S. 210(2)-(8) applied (5.1.1994) by [1993 c. 44](#), [ss. 38\(7\)](#), 64(2), [Sch. 4 Pt. I para. 6](#) (with [s. 30\(5\)](#))  
S. 210(2)-(8) applied (18.11.1996) by [1996 c. 58](#), [ss. 8\(6\)](#), 48(6), [Sch. 2 Pt. III para. 11](#) (with [s. 41](#), 43(1))  
S. 210(2)-(8) applied (1.4.1996) by [1995 c. 25](#), [s. 53\(3\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186](#), [art. 3](#)

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- S. 210(2)-(8) applied (1.4.1996) by 1990 c. 43, **Sch. 1 paras. 8-10** (as inserted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 93(5)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**)
- S. 210(2)-(8) applied (8.9.2000) by 2000 asp 10, **s. 28(2)** (with s. 32); S.S.I. 2000/312, **art. 2**
- S. 210(2)-(8) applied (8.9.2000) by 2000 asp 10, **s. 5(2)** (with s. 32); S.S.I. 2000/312, **art. 2**
- S. 210(2)-(8) applied (1.10.2001) by 2001 asp 8, **s. 65(5)**; S.S.I. 2001/304, **art. 2(1)(a)**
- S. 210(2)-(8) applied (4.2.2002) by The Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002 (S.S.I. 2002/6), regs. 3, **15(13)**
- S. 210(2)-(8) applied (1.10.2005) by Energy Act 2004 (c. 20), ss. 95, 198(2), **Sch. 16 para. 6(9)(b)** (with s. 38(2)); S.I. 2005/877, {art. 2(2)}, **Sch. 2**
- S. 210(2)-(8) applied (1.4.2006) by The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (S.S.I. 2005/348), **reg. 17(3)** (with reg. 50)
- S. 210(2)-(8) applied (with modifications) (1.1.2007) by The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 (S.I. 2006/582), **reg. 17(13)**
- C180** S. 210(2)-(6) applied (with modifications) (1.10.2001) by 2001 asp 8, **s. 65(6)**; S.S.I. 2001/304 art. 2a
- C181** S. 210(2)(4)-(8) applied (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), **ss. 10(3), 30(4)**; S.S.I. 2007/516, **art. 2**
- C182** S. 210(2)(4)-(8) applied by Pilotage Act 1987 (c. 21), s. 1A(6) (as inserted (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), **ss. 26, 30(4)**; S.S.I. 2007/516, **art. 2**)
- C183** S. 210(2)-(8) applied (1.10.2010 for certain purposes, otherwise prosp.) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 98(4)(5), 134(7)**; S.S.I. 2010/321, **art. 3, Sch.**
- C184** S. 210(2)-(6) applied (with modification) by 1978 c. 29, s. 10Z12(3)(4) (as inserted (1.10.2010 for certain purposes, otherwise prosp.) by Public Services Reform (Scotland) Act 2010 (asp 8), **ss. 108, 134**; S.S.I. 2010/321, **art. 3, Sch.**)
- C185** S. 210(2)-(8) applied (prosp.) by Marine and Coastal Access Act 2009 (c. 23), **ss. 70(4), 324** (with ss. 76-81, 111)
- C187** S. 210(3)-(5) applied (with modifications) (15.11.2004) by Children Act 2004 (c. 31), **s. 6(6)**
- C188** S. 210(3)-(8) applied (with modifications) (1.4.1996) by 1995 c. 25, s. 114(4), **Sch. 20 para. 5(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- S. 210(3)-(8) applied (with modifications) (28.9.2000) by S.S.I. 2000/323 reg. 22(13), **Sch. 8 para. 4(10)**
- S. 210(3)-(8) applied (1.4.2001) by 2001 asp 2, **s. 52(6)** (with s. 66); S.S.I. 2001/132, art. 2(2), **Sch. Pt. I**
- S. 210(3)-(8) applied (with modifications) (31.3.2003) by The The Greenhouse Gas Emissions Trading Scheme Regulations 2003 (S.I. 2003/3311), reg. 28, **Sch. 3 para. 4(6)**
- S. 210(3)-(8) applied (with modifications) (15.11.2004) by Children Act 2004 (c. 31), **s. 6(9)**
- S. 210(3)-(8) applied (with modifications) (21.4.2005) by The Greenhouse Gas Emissions Trading Scheme Regulations 2005 (S.I. 2005/925), reg. 34(3), **Sch. 3 para. 4(6)** (with reg. 3)
- S. 210(3)-(8) applied (1.4.2006) by The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (S.S.I. 2005/348), reg. 49, **Sch. 9 para. 19** (with reg. 50)
- C189** S. 210(3)-(8) applied (with modifications) (17.9.2009) by The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009 (S.I. 2009/2301), regs. 1, 37(3), **Sch. 3 para. 4(6)**
- C190** S. 210(3)-(8) applied (with modifications) (31.12.2009) by The Greenhouse Gas Emissions Data and National Implementation Measures Regulations 2009 (S.I. 2009/3130), regs. 1, 7(4), **Sch. 1 para. 3(11)**
- C191** S. 210(4)-(8) applied (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 25, 59, **Sch. 2 para. 11**; S.S.I. 2004/495, **art. 2**
- C192** S. 210(4)(5): power to apply conferred (1.1.1995 for specified purposes and otherwise 1.8.1996) by 1967 c. 77, **s. 30(4)** (as substituted (1.1.1995 for specified purposes and otherwise 1.8.1996) by 1994 c. 29, **s. 55(1)**; S.I. 1994/3075, art. 2, **Sch.**; S.I. 1996/1646, art. 2, **Sch.** (with art. 3))
- S. 210(4)(5) applied (19.11.1998) by 1998 c. 46, s. 1(5), **Sch. 1 para. 6(5)** (with s. 126(3)-(11))
- S. 210(4)(5): power to apply (with modifications) conferred (27.7.2001) by 1993 c. 9, **s. 20(4A)** (as inserted by 2001 asp 7, ss. 4, 5(1)(c) (with **Sch. paras. 79-83**); S.S.I. 2001/274, **art. 3**)
- S. 210(4)(5) applied (with modifications) (8.10.2001) by S.S.I. 2001/315, **rule 24**

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- S. 210(4)(5): power to apply (with modifications) conferred by [Ministry of Defence Police Act 1987 \(c. 4\), s. 4A\(4\)](#) (as inserted (9.3.2004) by [Police Reform Act 2002 \(c. 30\)](#) {ss. 79(2)}, 108(2)-(5)); [S.I. 2004/636, art. 2](#)
- S. 210(4)(5) modified (1.4.2004) by [Ministry of Defence Police Appeal Tribunals Regulations 2004 \(S.I. 2004/652\), reg. 11](#)
- S. 210(4)(5) applied by [Scotland Act 1998 \(c. 46\), Sch. 1 para. 11](#) (as substituted (22.7.2004 with effect as mentioned in s. 1(4) of the amending Act) by [Scottish Parliament \(Constituencies\) Act 2004, s. 1\(1\), {Sch. 1}](#))
- C193** S. 210(4)-(8) applied (30.10.1994) by [The Conservation \(Natural Habitats, etc.\) Regulations 1994 \(S.I. 1994/2716\), reg. 107\(2\)](#)
- C194** S. 210(4)-(8) applied (30.10.1994) by [The Conservation \(Natural Habitats, etc.\) Regulations 1994 \(S.I. 1994/2716\), regs. 22\(3\), Sch. 1 para. 4\(3\)](#)
- C195** S. 210(6)-(8) applied (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\), ss. 10\(4\), 30\(4\); S.S.I. 2007/516, art. 2](#)
- C196** S. 210(6)-(8) applied by [Pilotage Act 1987 \(c. 21\), s. 1A\(7\)](#) (as inserted (28.12.2007) by [Transport and Works \(Scotland\) Act 2007 \(asp 8\), ss. 26, 30\(4\); S.S.I. 2007/516, art. 2](#))
- C197** S. 210(6)(7)(8) applied (22.5.2008) by [The Transport and Works \(Scotland\) Act 2007 \(Access to Land on Application\) Order 2008 \(S.S.I. 2008/199\), art. 8\(9\)](#)
- C198** S. 210(6)(7)(8) applied (22.5.2008) by [The Transport and Works \(Scotland\) Act 2007 \(Access to Land by the Scottish Ministers\) Order 2008 \(S.S.I. 2008/200\), art. 7\(9\)](#)
- C199** S. 210(6)-(8) applied (with modifications) (1.3.2010) by [Planning Act 2008 \(c. 29\), s. 95\(5\), 241 \(with s. 226\); S.I. 2010/101, art. 3\(d\) \(with art. 6\)](#)
- C200** S. 210(6)-(8) applied (with modifications) (1.3.2010) by [Planning Act 2008 \(c. 29\), s. 113\(10\), 241 \(with s. 226\); S.I. 2010/101, art. 3\(d\) \(with art. 6\)](#)

## **[<sup>F372</sup>210A] Recovery of expenses of local inquiry.**

- (1) The following provisions of this section apply where a Minister is authorised under or by virtue of any of the following statutory provisions to recover expenses incurred by him in relation to an inquiry— section 129(1)(d) of the <sup>M70</sup>Road Traffic Regulation Act 1984 (expenses of inquiry under that Act), any other statutory provision to which this section is applied by order of the Minister.
- (2) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular—
  - (a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and
  - (b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.
- (3) The expense of an inquiry which does not take place may be recovered by the Minister from any person who would have been a party to the inquiry to the same extent, and in the same way, as the expense of an inquiry which does take place.
- (4) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is—
  - (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry

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- sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,
- (b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry,
  - (c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and
  - (d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.
- (5) An order or regulation under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order applying this section to a statutory provision may provide for the consequential repeal of so much of that provision, or any other provision, as restricts the sum recoverable by the Minister in respect of the services of any officer engaged in the inquiry or is otherwise inconsistent with the application of the provisions of this section.]

#### Textual Amendments

**F372** S. 210A inserted by [Housing and Planning Act 1986 \(c. 63, SIF 81:2\)](#), s. 49, [Sch. 11 Pt. II para. 39\(4\)](#)

#### Marginal Citations

**M70** [1984 c. 27\(107:1\)](#).

## 211 Provision for default of local authority.

- (1) If a complaint is made to the Secretary of State or any appropriate Minister that a local authority have failed to do what is required of them by or under this Act or any other enactment or the Secretary of State or that Minister is of opinion that an investigation should be made as to whether a local authority have so failed, he may cause a local inquiry to be held into the matter.
- (2) If after such a local inquiry the Secretary of State or appropriate Minister is satisfied that there has been such a failure on the part of the authority in question, he may make an order declaring the authority to be in default and directing them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

[<sup>F373</sup>(2A) If the Secretary of State or appropriate Minister—

- (a) is about to make an order under subsection (2) above; and
  - (b) is satisfied that the failure to which the order relates has continued or recurred,
- he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

- (2B) The Secretary of State or appropriate Minister may, in an order under subsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the

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date of the order may be made the subject of an application to the Court of Session under subsection (3A) below.]

- (3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been default, and do otherwise as to the court appears to be just.

[<sup>F374</sup>(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and  
(b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just.]

- (4) Nothing in this section shall affect the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

[<sup>F375</sup>(5) The provisions of this section shall apply to a joint board as they apply to a local authority.]

#### Textual Amendments

**F373** S. 211(2A)(2B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 159(2)

**F374** S. 211(3A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 159(3)

**F375** S. 211(5) inserted (1.4.1996) by 1994 c. 39, s. 21 (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), Sch. 1

#### Modifications etc. (not altering text)

**C201** S. 211 extended by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 78(4), 335

**C202** S. 211 functions of the Lord Advocate transferred (*temp.* from 20.5.1999 until 1.7.1999) to the Advocate General by S.I. 1999/901, arts. 2, 5, Sch; S.I. 1998/3178, arts. 2, 3, Sch. 4

## 212 Limitation of liability of certain owners.

Where a local authority claim to recover any sum in respect of rates or otherwise under or in pursuance of any provision of this Act from a person as being the owner of premises and that person proves that he—

- (a) is receiving the rent merely as trustee, tutor, curator, factor or agent for some other person; and  
(b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability should be limited to the total amount of the money which he has or has had in his hands as aforesaid.

## 213 Tweed Fisheries Commissioners.

<sup>F376</sup>(1) .....

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<sup>x10</sup>(3) The said Act of 1969 shall have effect subject to the amendments set out in Schedule 26 to this Act.

**Editorial Information**

**X10** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Textual Amendments**

**F376** S. 213(1)-(2) repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), [Sch. 1 Pt. VII](#)

*General*

**214 Consequential and minor modifications and amendments.**

- (1) As from 16th May 1975 Part I of Schedule 27 to this Act shall have effect for the purpose of making general adaptations of enactments, being adaptations which are consequential on the foregoing provisions of this Act.
- (2) As from that date the enactments specified in Part II of that Schedule shall have effect subject to the modifications and amendments set out in the said Part II, being modifications and amendments which are consequential on the foregoing provisions of this Act and minor amendments.

**215 Consequential and supplementary provisions.**

- (1) The Secretary of State or any appropriate Minister may at any time, whether before or after 16th May 1975, by order make such incidental, consequential, transitional or supplementary provisions as may appear to him—
  - (a) to be necessary or proper for the general or any particular purposes of this Act or in consequence of any of the provisions thereof or for giving full effect thereto; or
  - (b) to be necessary or proper in consequence of such of the provisions of any other Act passed in the same session as this Act as apply to any area or authority affected by this Act;

and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

- (2) An order under this section may in particular make provision, in the case of any body, person, funds or matter affected by this Act, for the transition from the provisions of any enactment to the provisions of this Act, but nothing in that order shall be inconsistent with any provision of this Act.

- <sup>F377</sup>(3) .....
- <sup>F377</sup>(4) .....
- <sup>F377</sup>(5) .....
- <sup>F377</sup>(6) .....

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F377 (7) .....

(8) Any statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**  
**F377** S. 215(3)-(7) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

**Modifications etc. (not altering text)**  
**C203** S. 215 extended by Value Added Tax Act 1983 (c. 55), **Sch. 10 para. 7**

**216 Transfer of officers.**

(1) An order or regulations under section 24, or an order under section 215, of this Act may contain provisions as to the transfer of any person who is, on such date as may be specified in relation to him in the order or by or under the regulations, the holder of any office or employment and who is affected by any provision of, or of any instrument made under, this Act and shall contain provision for the protection of the interests of such persons.

(2) ..... F378

(3) Any such order or regulations as is or are referred to in subsection (1) . . . F379 above shall include such provision with respect to any person who is transferred by or under the order or regulations from the employment of one authority to that of another so as to secure that—

(a) so long as he continues in the employment of that other authority by virtue of the transfer and until he is served with a statement in writing referring to the order or regulations and specifying new terms and conditions of employment, he enjoys terms and conditions of employment not less favourable than those which he enjoyed immediately before the date of transfer; and

(b) the said new terms and conditions are such that—  
(i) so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of transfer, the scale of his salary or remuneration, and  
(ii) the other terms and conditions of his employment,

are not less favourable than those which he enjoyed immediately before the date of transfer.

(4) ..... F378

**Textual Amendments**  
**F378** Ss. 216(2)(4)(5), 218–221, 224(1)–(4) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**  
**F379** Words repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**



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## 217 Continuity of employment in cases of voluntary transfer.

- (1) This section applies to a person if—
- (a) at some time before 16th May 1975, or on that date but otherwise than by virtue of provision made by an order under section 216 above, he enters the employment of a new local authority (in this section referred to as “his new employment”), and
  - (b) had he continued until 16th May 1975 in the employment (in this section referred to as “his previous employment”) which he last held before he entered his new employment or (if he did so continue) had he then ceased to be in that employment by reason only of Part I of this Act, provision would have been made by an order under section 216(2) of this Act for his transfer on that date to the employment of a specified local authority.
- (2) Where this section applies to a person, then for the purposes of [<sup>F380</sup>paragraph 10 of Part II of Schedule 1 to the <sup>M71</sup>Trade Union and Labour Relations Act 1974] (qualifying period for protection from unfair dismissal) and [<sup>F381</sup>section 49 of the <sup>M72</sup>Employment Protection (Consolidation) Act 1978] (minimum periods of notice)—
- (a) the period of employment in his previous employment shall count as a period of employment in his new employment, and
  - (b) the change of employment shall not break the continuity of the period of employment.

### Textual Amendments

**F380** Words substituted by virtue of Trade Union and Labour Relations Act (c. 52), Sch. 4 para. 7

**F381** Words substituted by virtue of [Employment Protection \(Consolidation\) Act 1978 \(c. 44\)](#), [Sch. 15 para. 4](#)

### Marginal Citations

**M71** 1974 c. 52.

**M72** 1978 c. 44.

218— ..... <sup>F382</sup>

221.

### Textual Amendments

**F382** Ss. 216(2)(4)(5), 218–221, 224(1)–(4) repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\)](#), [Sch. 4 Pt. I](#)

<sup>F383</sup>222 .....

### Textual Amendments

**F383** S. 222 repealed (1.4.1996) by 1994 c. 39, s. 180(2), [Sch. 14](#); S.I. 1996/323, art. 4(1)(b)(d), [Sch. 2](#)

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F384 **223** .....

**Textual Amendments**

**F384** S. 223 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2** (subject to art. 4(2))

F385 **224** .....

**Textual Amendments**

**F385** S. 224 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

**225 Local Acts and instruments.**

(1) Subject to subsections (2)

and (8) below, any local statutory provision to which this section applies and which is not continued in force by any other provision of this Act shall—

- (a) notwithstanding the changes of administrative areas and local authorities effected by or under this Act and, in the case of an instrument made under any enactment, notwithstanding the repeal of that enactment, continue to apply on and after 16th May 1975 to, but only to, the area, things or persons to which or to whom it applies before that date;
- (b) have effect subject to any necessary modifications and to the modifications made by subsection (3) below;

but the continuation by this subsection of an instrument made under any enactment shall not be construed as prejudicing any power to vary or revoke the instrument which is exercisable apart from this subsection.

(2) Subsection (1)

above shall have effect subject to the provisions of—

- (a) this Act, other than Part I of Schedule 27;
- (b) any Act passed after this Act and before 16th May 1975; and
- (c) any order made under section 215 of this Act or the following provisions of this section.

(3) Any local statutory provision to which this section applies and which relates to functions exercisable by a local authority of any description by virtue of any public general enactment shall have effect as if for any reference to the authority by whom the functions are exercised immediately before 16th May 1975 there were substituted a reference to the authority by whom those functions are exercisable on and after that date.

(4) Subsection (3)

above shall not come into force until 16th May 1975 and shall have effect subject to any provision to the contrary made by, or by any instrument made under, this Act and, without prejudice to the foregoing, the Secretary of State may by order provide for the

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exercise of functions conferred by any local statutory provision to which this section applies and exclude the operation of that subsection where it would otherwise conflict with any provision of the order.

- (5) Where any local statutory provision is continued in force in any area by subsection (1) above or is amended or modified in its application to any area by an order under section 215 of this Act, the Secretary of State or any appropriate Minister may by that order, or in the case of a provision continued as aforesaid, by an order under this subsection—
- (a) extend the provision throughout the new local government area in which it is continued in force;
  - (b) provide that that provision as so continued, amended, modified or extended shall have effect in that area to the exclusion of any enactment for corresponding purposes, including any enactment contained in or applied by this Act;
  - (c) make such modifications of any such enactment in its application to that area as will secure that the enactment will operate harmoniously with the said provision in that area;
  - (d) repeal or revoke any local statutory provision to which this section applies and which appears to the Secretary of State or that Minister to have become spent, obsolete or unnecessary or to have been substantially superseded by any enactment or instrument which applies or may be applied to the area, persons or things to which or to whom that provision applies;
  - (e) transfer to any authority appearing to the Secretary of State or that Minister to be appropriate any functions of an existing local authority under a local statutory provision to which this section applies which are not to become functions of some other authority under any provisions of this Act except section 215 of this Act and this section, or under any other instrument made under this Act, being functions exercisable by any existing local authority abolished by this Act;
  - (f) with prejudice to paragraph (e) above, make such modifications of any local statutory provision to which this section applies in its application to any new local government area as appear to the Secretary of State or that Minister to be expedient.
- (6) [<sup>F386</sup>Subject to sections 134(2), 135 and 137 of the <sup>M73</sup>Civic Government (Scotland) Act 1982 and any order under these sections,] All local statutory provisions to which this subsection applies shall cease to have effect at the end of [<sup>F387</sup>1984], but—
- (a) the Secretary of State or any appropriate Minister may by order exempt any such provision from the foregoing provision of this subsection;
  - (b) the Secretary of State may from time to time by order postpone the date on which all local statutory provisions applying to the whole or part of any local government area, so far as they so apply, are to cease to have effect under this subsection.
- (7) An instrument containing an order under subsection (5) or (6) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) Any local statutory provision relating to valuation or the determination, levying, collection or recovery of rates shall cease to have effect:

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Provided that this subsection shall not affect the operation of section 19(2) of the <sup>M74</sup>Water (Scotland) Act 1949 (domestic water rate payable at reduced rate in certain cases).

(9) This section applies to any local statutory provision in force immediately before 16th May 1975 and not expressly repealed or revoked by this Act, and subsection (6) above applies to the following statutory provisions—

- (a) a provision of a local Act, the Bill for which was promoted by a local authority;
- (b) a provision of an Act confirming a provisional order made on the application of a local authority;
- (c) a provision of an order made on such an application which was subject to special parliamentary procedure;

not being a provision relating to a statutory undertaking or a protective provision for the benefit of any person.

(10) In subsection (9)

above “local authority” means—

- (a) a council of a county, county of city, burgh or district;
- (b) any body which immediately after the coming into force of the enactment which constituted the body exercised functions which immediately before 16th May 1975, were exercised by one of the councils referred to in paragraph (a) above;

and “statutory undertaking” means any railway, light railway, tramway, road transport, water transport, canal, inland navigation, ferry, dock, harbour, pier or lighthouse undertaking, any market undertaking or any undertaking for the supply of electricity, gas, hydraulic power, water or district heating.

**Textual Amendments**

**F386** Words inserted by [Civic Government \(Scotland\) Act 1982 \(c. 45\), s. 134\(1\)](#)

**F387** Words substituted by [Civic Government \(Scotland\) Act 1982 \(c. 45\), s. 134\(1\)](#)

**Modifications etc. (not altering text)**

**C204** [S. 225\(6\)](#) amended by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 29\(2\)](#) and [Civic Government \(Scotland\) Act 1982 \(c. 45\), ss. 134, 135](#)

**Marginal Citations**

**M73** 1982 c. 45.

**M74** 1949 c. 31.

<sup>F388</sup>**226** .....

**Textual Amendments**

**F388** [S. 226](#) repealed (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 92\(64\), Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)\(d\), Sch. 2](#)

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**227 Abolition of Dean of Guild Court.**

On 16th May 1975 all dean of guild courts shall cease to exist, and unless otherwise provided, all powers, duties and responsibilities conferred on a dean of guild or a dean of guild court by or under any enactment shall thereafter be exercised by the authority responsible for building control in the area concerned.

**228 Abolition of fiars courts for counties, etc.**

- (1) The courts for striking the fiars prices for the counties of Scotland shall no longer be held, and accordingly no payment becoming due after the appointed day shall be calculated by reference to fiars prices.
- (2) Subject to the provisions of section 12 of the <sup>M75</sup>Conveyancing (Scotland) Act 1924 (abolition and commutation of grain, etc. feuduties) the amount of any periodical payment becoming due after the appointed day which would, if it had become due immediately before that day, have fallen to be ascertained by reference to fiars prices, shall be a sum in money representing the average value of the payment due during the last three years before that day.
- (3) In the event of the parties failing to reach agreement as to the commutation into money of any payment by reference to subsection (2) above, either party may apply to the sheriff for a decree declaring the commuted value in money of the payment.
- (4) Where any payment, the amount of which falls to be ascertained by reference to subsection (2) above, is exigible from any person by virtue of an interest in land, the title to which may be recorded in the Register of Sasines, any agreement relative thereto and any decree pronounced under subsection (3) above shall, on being duly recorded in the appropriate register, be binding upon all persons having interest.

<sup>F389</sup>(5) .....

- (6) In this section “the appointed day” means the day appointed under section 238 of this Act for the coming into operation of this section.

**Textual Amendments**

**F389** S. 228(5) repealed (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), ss. 88(2), 89(2), [Sch. 13](#), Pt. I (with s. 45(3), [Sch. 12](#) paras. 1-3).

**Marginal Citations**

**M75** 1924 c. 27.

<sup>F390</sup>**229** .....

**Textual Amendments**

**F390** S. 229 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\) Sch. 1](#), Pt. X Group1

<sup>F391</sup>**230** .....

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### Textual Amendments

**F391** S. 230 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(65), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

## 231 Application to sheriff in cases of difficulty.

- (1) Where, from failure to observe any of the provisions of this Act or from any other cause, a difficulty arises in carrying into effect any of the provisions of this Act, or where in any case any question arises as to the procedure to be followed, or where any question arises in connection with the election of members of a local authority and no provision is made in this Act for meeting such difficulty or determining such question, it shall be lawful for the local authority or any seven local government electors for the area of the authority or the proper officer of the authority, or in the case of a question relating to an election of members of a local authority for the returning officer at the election, to make application to the sheriff setting forth the circumstances and after such intimation and inquiry as to the sheriff seems proper, the sheriff may give such directions as in his judgment will enable the provisions of this Act to be complied with as nearly as possible or determine the question as the case may be, and may make such order as seems proper to him with reference to the expenses in connection with the application and the persons by whom such expenses are payable.
- (2) Subject to any order made by the sheriff, all expenses incurred in connection with any application under the preceding subsection shall be defrayed as part of the general expenses of the authority.

### Modifications etc. (not altering text)

**C205** S. 231 applied (4.1.1995) by 1994 c. 39, s. 60 (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**  
 S. 231 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

## 232 Provisions regarding applications to court.

- (1) Where any application to the sheriff under this Act is dealt with in the first instance by a sheriff other than the sheriff principal, it shall be competent to appeal to the sheriff principal against the decision of the sheriff within fourteen days after the date thereof, but subject thereto the decision of the sheriff principal or sheriff shall, except where otherwise specifically provided, be final.
- (2) Where the area of a local authority is situated within more than one sheriffdom, any application to the sheriff under this Act shall be presented to the sheriffs principal of the sheriffdoms in which the area of the authority is situated.
- (3) Where any application is presented to two or more sheriffs principal under this Act and they are unable to reach a unanimous decision, they shall state a case for the Court of Session and the Court may pronounce any deliverance which it would have been competent for the sheriffs to make.

### Modifications etc. (not altering text)

**C206** S. 232 applied (4.1.1995) by 1994 c. 39, s. 60 (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

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S. 232 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

### 233 Orders, rules and regulations.

- (1) Any power to make orders, rules or regulations conferred on any Minister by any provision of this Act, other than section 104(1), [F392210(7)] 211 or 221 shall be exercisable by statutory instrument.
- (2) Any order under this Act may be varied or revoked by a subsequent order made in the like manner and subject to the same provisions.
- (3) An order made by a Minister under this Act may contain such incidental, consequential and supplemental provisions as appear to the Minister by whom the order is made to be necessary or proper for bringing the order into operation and giving full effect thereto.

#### Textual Amendments

F392 “210(7)” inserted by Housing and Planning Act 1986 (c. 63, SIF 81:2), s. 49, Sch. 11 Pt. II para. 39(3)

### 234 Expenses.

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by any Minister under this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

### 235 General provisions as to interpretation.

- (1) In this Act, except where the context otherwise requires—

“appropriate Minister”, with respect to any matter, means the Minister in charge of any Government Department concerned with that matter; but the validity of any order or regulation purporting to be made by any Minister by virtue of a power conferred on the appropriate Minister by this Act shall not be affected by any question as to whether or not that Minister was the appropriate Minister for the purpose;

F393 . . .

F393 . . .

“education authority”, “educational establishment”, “further education” and “school” have the same meanings as in [F394the M76 Education (Scotland) Act 1980];

F393 . . .

[F395“electoral ward” shall be construed in accordance with section 5 of the Local Government etc. (Scotland) Act 1994;]

“enactment” includes an order, regulation, rule or other instrument having effect by virtue of an Act;

“existing”, in relation to any authority, means that authority as they existed immediately before the passing of this Act;

“financial year” has [F396, except in section 98,] the meaning assigned to it by section 96(5) of this Act;

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“joint board” means a body corporate, constituted for the purposes of a combination of local authorities under this Act or by or under any other enactment, consisting exclusively of persons appointed by the local authorities;  
 “joint committee” means a body, not being a body corporate, constituted for the purpose of a combination of local authorities under this Act or by or under any other enactment, consisting exclusively of persons appointed by the local authorities;

“land” includes land covered with water and any interest right or servitude in or over land;

[<sup>F397</sup>“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]

“local statutory provision” means a provision of a local Act (including an Act confirming a provisional order) or a provision of a public general Act passed with respect only to the whole or part of an existing local government area or a provision of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act;

“new”, in relation to any authority, means that authority as established by or under this Act;

“1947 Act” means the <sup>M77</sup>Local Government (Scotland) Act 1947;

“prescribed” means prescribed by regulations made by the Secretary of State;

“rating authority” [<sup>F398</sup>shall be construed in accordance with section 30 of the Local Government etc. (Scotland) Act 1994];

<sup>F399</sup> . . .

- (2) Any reference in this Act to a regional, islands or district council includes a reference to any combination of those councils.
- (3) Any reference in this Act to a proper officer and any reference which by virtue of this Act is to be construed as such a reference shall, in relation to any purpose and any local authority or other body or any area, be construed as a reference to an officer appointed for that purpose by that body or for that area, as the case may be.
- (4) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.

### Textual Amendments

**F393** S. 235(1): definitions of

“area”

,

“college council”

,

“school council”

and

“education committee”

repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(66)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(c)(d), **Sch. 2**

**F394** Words substituted by virtue of Interpretation Act 1978 (c. 30), s. 17(2)(a) and Education (Scotland) Act 1980 (c. 44), **Sch. 3 para. 1**

**F395** S. 235(1): definition of

“electoral ward”



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- substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(66)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F396** S. 235(1): words in definition of  
“financial year”  
inserted (29.4.1996 with effect first in relation to the period from 1.4.1997 to 31.10.1997) by 1996  
c. 10, s. 4(2)(3); S.I. 1997/1979, **art. 2**
- F397** S. 235(1): definition of  
“local authority”  
substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(66)(c)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F398** S. 235(1): words in definition of  
“rating authority”  
substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(66)(d)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F399** S. 235(1): definition of  
“water authority”  
repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

#### Marginal Citations

- M76** 1980 c. 44.  
**M77** 1947 c. 43.

## 236 Savings.

- (1) ..... **F400**
- (2) <sup>F401</sup> . . . Nothing in sections 70 to 78 of this Act shall affect any provision relating to the acquisition by agreement or compulsorily, appropriation, letting or disposal of land, the erection of buildings or the execution of works by a local authority contained in any of the following enactments or any instrument made thereunder—
- (a) The Burial Grounds Acts;
  - (b) The Military Lands Acts 1892 to 1903;
  - (c) The <sup>M78</sup>Cremation Act 1902;
  - (d) The Housing (Scotland) [<sup>F402</sup>Act 1987];
  - <sup>F403</sup>(e) .....
  - (f) The Education (Scotland) Acts 1939 to 1973;
  - (g) The <sup>M79</sup>Police (Scotland) Act 1967;
  - (h) Any local Act.
- (3) Any enabling provision contained in this Act shall be in addition to, and not in derogation of, any powers exercisable by Her Majesty by virtue of her royal prerogative.

#### Textual Amendments

- F400** S. 236(1) repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F401** Words in s. 236(2) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**
- F402** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 20(3)**
- F403** S. 236(2)(e) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(b)(d), **Sch. 2**

#### Marginal Citations

- M78** 1902 c. 8.

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**M79** 1967 c. 77.

## 237 Repeals.

- (1) The enactments specified in Schedule 29 to this Act (which include enactments that were obsolete, spent or unnecessary before the passing of this Act) are hereby repealed to the extent mentioned in the third column of that Schedule.
- (2) Without prejudice to [<sup>F404</sup>section 17(2) of the <sup>M80</sup>Interpretation Act 1978], where this Act repeals any enactment making provision with respect to a particular matter or particular matters and either makes or applies some other enactment making corresponding or different provision with respect to that matter or those matters, then, unless the contrary intention appears and in particular subject to any instrument under section 215, 216, 219 or 225 of this Act references in any enactment other than this Act, or in any instrument made under any enactment other than this Act, to the repealed enactment shall be construed as references to the enactment contained in or applied by this Act which makes the corresponding or different provision.

### Textual Amendments

**F404** Words substituted by virtue of [Interpretation Act 1978 \(c. 63\), s. 25\(2\)](#)

### Modifications etc. (not altering text)

**C207** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)–(9), 147(2)(6)(7)(8), 155(2)(3)(5)(6) (7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2–12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M80** 1978 c. 30.

## 238 Short title, commencement and extent.

- (1) This Act may be cited as the Local Government (Scotland) Act 1973.
- (2) This Act (except this section) shall come into operation on the appointed day, being such day as the Secretary of State may by order appoint, and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases.
- (3) This Act, except sections 92, 146(5) and 213 and paragraph 64 of Schedule 17 and Schedule 26 <sup>F405</sup> . . . extends to Scotland only.

### Textual Amendments

**F405** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\), Sch. 3](#)

### Modifications etc. (not altering text)

**C208** Power of appointment conferred by s. 238(2) fully exercised: [S.I. 1973/1886](#), 2181

**Status:**

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