



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART II

#### CHANGES IN LOCAL GOVERNMENT AREAS

##### *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.

## **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 ten nor more than fifteen years after 16th May 1975 and thereafter at intervals of not less than ten nor more than fifteen 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 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 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.

## **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.

- (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.

## **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 ten nor more than fifteen years after the submission of the report on the initial 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 ten nor more than fifteen 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.

## **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.

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- (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.

### *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—
    - (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.

## **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.

### *Supplementary Provisions*

## **20 Initial review of areas and electoral arrangements**

Schedule 5 to this Act shall have effect with respect to the initial review of local government areas and electoral arrangements.

## **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 the Minister for the Civil Service.

## **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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### **23 Change of name of region, islands area or district**

- (1) Subject to subsection (4) below, the council of a region, islands area or district may, by a resolution passed by a majority of the whole number of the members of the council at a meeting of the council specially convened for the purpose with notice of the object, change the name of the region, islands area or district.
- (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.
- (4) The name of a region, islands area or district shall not be changed under this section unless the change is made with the consent of the Secretary of State.

### **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.
- (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 areas which have been abolished or the assignment of such councillors and of other existing councillors to new or altered electoral areas, and the first election of councillors for any new or altered electoral areas ;
  - (d) without prejudice to paragraph (c) above, the holding of a fresh election of councillors for all electoral areas in the local government area in question in a case where substantial changes have been made to some of those areas;
  - (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 regional, islands or district councillors for any electoral area 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.

## **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 of the 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.

## **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

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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.

## **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 areas 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 area;
  - " local government area " means a region, islands area or district;
  - " 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 this Act.
- (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 Registration of Births, Deaths and Marriages (Scotland) Act 1965 or the provisions of that Act relating to registration districts.